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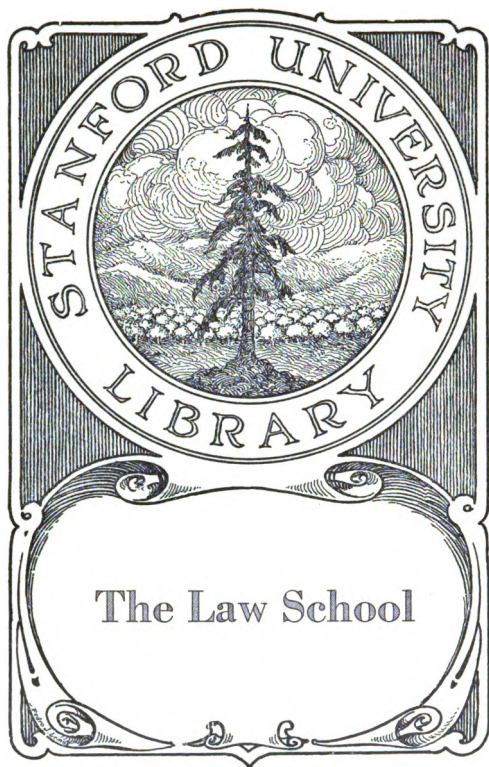
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GENERAL

LAWS, MEMORIALS AND RESOLUTIONS

OF THE

TERRITORY

OF

DAKOTA,

PASSED AT THE SIXTH SESSION OF THE

LEGISLATIVE ASSEMBLY

BEGUN AND HELD AT YANKTON, THE CAPITAL OF SAID
TERRITORY, ON MONDAY, DECEMBER 4th, A. D. 1866,
AND CONCLUDED JANUARY 12th, A. D. 1867.

TO WHICH ARE PREFIXED

*A Table of Contents; The Constitution of the United States; and the
Act Organizing the Territory.*

PUBLISHED BY AUTHORITY.

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YANKTON, DAKOTA TERRITORY,  
GEO. W. KINGSBURY, PUBLIC PRINTER, UNION AND DAKOTAIAN OFFICE.  
1867.

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# CONSTITUTION

OF THE

# United States.

We, the people of the United States, in order to form a Preamble.  
more perfect union, establish justice, insure domestic tranquility,  
provide for the common defence, promote the general welfare,  
and secure the blessings of liberty to ourselves and our poster-  
ity, do ordain and establish this Constitution for the United  
States of America.

## ARTICLE I.

### SECTION I.

All legislative powers herein granted shall be vested in a Legislative powers vested in congress.  
congress of the United States, which shall consist of a senate  
and house of representatives.

### SECTION II.

1. The house of representatives shall be composed of mem- House of repre-  
bers chosen every second year by the people of the several sentatives—its  
states; and the electors in each state shall have the qualifica- members; by  
tions requisite for electors of the most numerous branch of the whom chosen;  
state legislature. qualifications of  
electors.

2. No person shall be a representative who shall not have A representative  
attained to the age of twenty-five years, and been seven years to be 25 : 7 years  
a citizen of the United States, and who shall not, when elected, a citizen of the  
be an inhabitant of that state in which he shall be chosen. United States ;  
and an inhabit-  
ant of his state  
when elected

Representatives and taxes to be apportioned according to numbers.

Actual enumeration every ten years.

Limitation of the ratio of representation, &c.

First apportionment of representatives.

Writs of election for filling vacancies.

House of representatives to choose speaker &c., and have power of impeachment.

Senators, how chosen: each to have a vote.

Senate divided into three classes; to be chosen every two years.

Executives of states to fill vacancy in the recess of legislatures, &c.

3. Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; and Georgia, three.

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writ of election to fill such vacancies.

5. The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

### SECTION III.

1. The Senate of the United States shall be composed of two senators from each state chosen by the legislature thereof, for six years; and each senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

A senator aged 30; nine years a citizen of the United States and an inhabitant of his state when chosen.

4. The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

Vice-president to be president of the Senate; to vote on an equally divided only.

5. The senate shall choose their other officers, and also a president *pro tempore* in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The Senate to choose their president *pro tempore*, &c.

6. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

The senate have the sole power to try impeachments, &c.

7. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States: but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

Extent of judgment in cases of impeachment; but the party further liable by indictment at law.

#### SECTION IV.

1. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to places of choosing senators.

Times, &c., of holding elections for senators and representatives regulated by the states or by congress.

2. The congress shall assemble at least once in every year; and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day.

Congress to assemble annually the first Monday in Dec. unless, &c.

#### SECTION V.

1. Each house shall be the judge of elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel attendance of absent members, in such manner and under such penalties as each house may provide.

Each house judge of the election and qualification of its own members. Quorum.

Each house to form its own rules and punish its members.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds expel a member.

Journals of each house. Yeas and nays, how taken.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present be entered on the journal.

Adjournment of both houses.

4. Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

#### SECTION VI.

Senators and representatives to be paid &c. privileged from arrest; not to be questioned for debate, &c.

1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

Concerning the holding of offices by senators and representatives.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

#### SECTION VII.

Revenue bill to originate in the house of representatives, &c.

1. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Powers of the president and of congress in the enacting of laws and the forms of proceeding on bills in that respect,

2. Every bill which shall have passed the house of representatives and the senate shall, before it become a law, be presented to the president of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall

enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return; in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be repassed by two thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Joint resolution except for adjournment, to receive the same sanction as bills

## SECTION VIII.

The congress shall have power,—

1. To lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

Congress shall have power, 1st, to lay taxes, &c.

2. To borrow money on the credit of the United States;

2. Bor. money.

3. To regulate commerce with foreign nations, and among the several states and with the Indian tribes;

3. Regulat<sup>e</sup> commerce.

4. To establish an uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States;

4. Establish the rule of naturalization and bankrupt laws.

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

5. Coin money, &c and fix weights and measures.

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

6. Provide for punishing counterfeiters.

7. Establish  
post-offices, &c.  
8. Patent rights

7. To establish post-offices and post roads ;

8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors the exclusive right to their respective writings and discoveries ;

9. To constitute  
inferior tribunals, &c.

9. To constitute tribunals inferior to the supreme court ;

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations ;

11. To declare  
war, &c.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water ;

12. Raise armies  
&c.

12. To raise and support armies ; but no appropriation of money to that use shall be for a longer term than two years ;

13. Provide a  
navy

13. To provide and maintain a navy ;

14. Make rules  
for army and  
navy.

14. To make rules for the government and regulation of the land and naval forces ;

15. Provide for  
calling forth the  
militia.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions ;

16. Provide for  
organizing the  
militia, &c.

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress.

17. Exercise exclusive  
jurisdiction over a  
district, and places  
for forts, &c.

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings ; and

18. Make all laws  
necessary to the  
execution of  
their powers.

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or any department or officer thereof.

#### SECTION IX.

Importation of  
certain persons  
not to be prohibited  
until after  
1808.

1. The migration or importation of such persons as any of the states, now existing, shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand



eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it. Habeas corpus

3. No bill of attainder, or *ex post facto* law, shall be passed. No bill of attainder or ex post facto law.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken. Direct taxes according to census.

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear or pay duties in another. No export duty nor preference of one state to another in commerce.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time. Public moneys, how drawn &c.

7. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state. No titles of nobility. No presents, &c.

#### SECTION X.

1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility. Restrictions on the power of the states individually.

2. No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the Powers which the states can exercise only under the sanction of congress

consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

### SECTION I.

Executive power vested in a president, &c.

1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

Electors of president and vice-president.

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. [Annulled. See Amendments, Art. 12.]

Congress may fix the time of choosing the electors, &c.

4. The congress may determine the time of choosing the electors, and the day on which they shall give their votes which day shall be the same throughout the United States.

Qualifications of president.

5. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In cases of vacancy in the office of president, the vice-president to act, &c.

6. In case of the removal of the president from office, or if his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president; and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

7. The president shall, at stated times, receive for his ser-

vices a compensation which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emoluments from the United States, or any of them.

Compensation to the president

8. Before he enter on the execution of his office, he shall take the following oath or affirmation :

The president to take an oath.

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

Form of the oath

## SECTION II.

1. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices ; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

The president is commander-in-chief—he may require opinions of executive officers, and may grant pardons, &c.

2. He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur ; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

He may, by advice of the of the senate, make treaties, appoint ambassadors ; other officers ; congress may vest certain appointments otherwise.

3. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

President may fill vacancies in recess.

## SECTION III.

He shall, from time to time, give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.

President to recommend measures to congress &c., may convene and adjourn

congress, on certain occasions, shall receive ambassadors, see the laws executed, and commission officers.

ent; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors, and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

#### SECTION IV.

President and other officers removable by impeachment.

The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III.

#### SECTION I.

Judicial power vested in a supreme court, &c judges to hold their offices during good behavior.

The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as congress may from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

#### SECTION II.

Extent of the judicial power.

1. The judicial power shall extend to all cases, in law and equity, arising under the constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, and other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state, claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

Original and appellate jurisdiction of the supreme court.

2. In all cases affecting ambassadors, or other public ministers, and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the

other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Trial of crimes to be by jury.

The venue.

#### SECTION III.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Definition of treason, &c.

2. The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attained.

Congress to declare the punishment of treason, &c.

### ARTICLE IV.

#### SECTION I.

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other State. And the congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect hereof.

Credit to be given in one state to the public acts of another.

#### SECTION II.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several states.

Reciprocity of citizenship throughout the states.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime.

Criminals flying from one state to another to be delivered up;

3. No person held to service or labor in one state, under the

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Runaway slaves  
&c. to be delivered up.

laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

### SECTION III.

New states may  
be admitted into  
the union, &c.

1. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the state concerned, as well as of the congress.

Congress to have  
power of territory, &c.

2. The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

### SECTION IV.

Republican form  
of government  
guaranteed to  
each state, &c.

The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

## ARTICLE V.

Mode of amending  
the constitution.

The congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

## ARTICLE VI.

1. All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

Assumption of debts incurred under the confederation.

2. This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; anything in the constitution or laws of any state to the contrary notwithstanding.

This constitution, acts of congress and treaties, the supreme law—the state judges and thereby.

3. The Senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Members of congress and of the state legislatures, &c., bound by oath to support this constitution.

## ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Ratification of nine states, sufficient, &c.

Done in convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,

President and Deputy from Virginia.

*New Hampshire.*—John Langdon, Nicholas Gilman.

*Connecticut.*—Wm. Samuel Johnson, Roger Sherman.

*Massachusetts.*—Nathaniel Gorham, Rufus King.

*New York.*—Alexander Hamilton.

*New Jersey.*—William Livingston, William Patterson, David Brearley, Jonathan Dayton.

*Maryland.*—James M'Henry, Dan'l of St. Tho. Jenifer, Daniel Carroll.

*Pennsylvania.*—Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzimons, Jared Ingersoll, James Wilson, Gouverneur Morris.

*Virginia.*—John Blair, James Madison, Jr.

*Delaware.*—George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

*North Carolina.*—William Blount, Rich. Dobbs Spaight, Hugh Williamson.

*South Carolina.*—John Rutledge, Charles C. Pinckney, Charles Pinckney, Pierce Butler.

*Georgia.*—William Few, Abraham Baldwin.

Attest,

WILLIAM JACKSON,

*Secretary.*



# AMENDMENTS TO THE CONSTITUTION.

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## ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

Congress prohibited from interfering with religion, with freedom of speech, or the press, and the right of petition

## ARTICLE II.

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Right of the people to keep and bear arms, &c.

## ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

No soldier to be quartered in any house, during peace, without consent, &c.

## ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

No search warrant to issue, except on probable cause, oath, &c.

## ARTICLE V.

No person to be held to answer for a crime, unless on presentment, &c., except in the land or naval forces, nor to answer for the same offence twice, &c.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

## ARTICLE VI.

Assurance of speedy and public trial by jury, &c., in criminal prosecutions.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

## ARTICLE VII.

Right of trial by jury in suits at common law, above the value of twenty dollars, &c.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

## ARTICLE VIII.

Excessive bail, and unjust and cruel punishments prohibited.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## ARTICLE IX.

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Rights enumerated not to disparage those retained.

## ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Powers not delegated, &c., are reserved to the states or people.

## ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

Restriction of judicial powers.

## ARTICLE XII.

1. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; and the person having the greatest number of votes for president shall be president, if such number be a

Mode of electing the president and Vice-president of the United States.

majority of the whole number of electors appointed ; and if no person have such majority, then from the persons having the highest number, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But, in choosing the president, the votes shall be taken by states, the representation from each state having one vote ; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed ; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president : a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

### ARTICLE XIII.

No title of nobility or honor to be accepted, &c.

If any citizen of the United States, shall accept, claim, receive, or retain any title of nobility or honor, or shall, without the consent of congress, accept or retain any present, pension, office, or emolument of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

### ARTICLE XIV.

#### SECTION I.

Neither slavery nor involuntary servitude, except as a pun-

ishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. <sup>Slavery abolished.</sup>

## SECTION II.

Congress shall have the power to enforce this article by appropriate legislation.

**AN ACT**  
**TO ORGANIZE THE**  
**TERRITORY**  
**OF**  
**DAKOTA,**  
**AND TO CREATE THE OFFICE OF**  
**SURVEYOR-GENERAL**  
**THEREIN**

# AN ACT

TO PROVIDE A TEMPORARY GOVERNMENT FOR THE

TERRITORY OF DAKOTA,

AND

TO CREATE THE OFFICE OF SURVEYOR GENERAL THEREIN.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* Territory of Dakota.  
all that part of the territory of the United States included within the following limits, namely :

Commencing at a point in the main channel of the Red river Boundaries:  
of the North, where the forty-ninth degree of north latitude crosses the same; thence up the main channel of the same, and along the boundary line of the State of Minnesota, to Big Stone Lake; thence along the boundary line of the said State of Minnesota to the Iowa line; thence along the boundary line of the State of Iowa to the point of intersection between the Big Sioux and Missouri rivers; thence up the Missouri, and along the boundary line of the Territory of Nebraska, to the mouth of the Niobrara or Running Water river; thence following up the same, in the middle of the main channel thereof, to the mouth of the Kaha Paha or Turtle Hill river; thence up said river to the forty-third parallel of north latitude: thence due west to the present boundary of the Territory of Washington; thence along the boundary line of Washington Territory, to the forty-ninth degree of north latitude; thence east, along said forty-ninth degree of north latitude, to the place of begin-

Rights of the  
Indians not im-  
paired.

Indian Territory  
excepted out of  
said boundaries.

Territory may  
be divided.  
Executive.

Governor—term  
of office; powers,  
and duties.

ning, be, and the same is hereby, organized into a temporary government, by the name of the Territory of Dakota; *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribes, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries and constitute no part of the Territory of Dakota, until said tribe shall signify their assent to the president of the United States to be included within the said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed; *Provided, further*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory into two or more territories, in such manner and at such times as congress shall deem convenient and proper, or from attaching any portion to any other territory or state.

Sec. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Dakota, shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the law of said territory, and reprieves for offences against the laws of the United States until the decision of the president can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and take care that the laws be faithfully executed.



Sec. 3. *And be it further enacted,* That there shall be a Secretary—term powers, and duties. secretary of said territory, who shall reside therein, and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor, in his executive department; he shall transmit one copy of the laws, and one copy of the executive proceedings, on or before the first day of December in each year, to the president of the United States, and, at the same time, two copies of the laws to the speaker of the house of representatives and the president of the senate, for the use of congress; and in case of the death, removal, or resignation, or other necessary absence of the governor from the territory, the secretary shall have, and is hereby authorized and required, to execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

Sec. 4. *And be it further enacted,* That the legislative Legislative power. power and authority of said territory shall be vested in the governor and a legislative assembly. Assembly. The legislative assembly shall consist of a council and house of representatives. Council. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. House of representatives. The house of representatives shall consist of thirteen members, which may be increased to twenty-six, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. Apportionment, An apportionment shall be made as nearly equal as practicable, among the several counties or districts for the election of the council or house of representatives, giving to each section of the territory representation in the ratio of its population (Indians excepted) as nearly as may be; and the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected, respectively. Census. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the territory to be taken; and the first

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|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| First election.                                      | election shall be held at such times and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected, having the highest number of votes in each of said council districts, for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives; <i>Provided</i> , That in case of a tie between two or more persons voted for, the governor shall order a new election, to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but |
| Proviso.                                             | thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly; <i>Provided</i> ,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Subsequent elections.                                | That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Length of sessions.                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Voters at first election, and eligibility to office. | Sec. 5. <i>And be it further enacted</i> , That every free white male inhabitant of the United States above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly; <i>Provided</i> , That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States.                                                                                                                                                                                                                                                                                                                                                  |
| At subsequent elections.<br>Proviso.                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

Sec. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall any law be passed impairing the rights of private property; nor shall any discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.

Extent and limits of legislative power.

Sec. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and, in the first instance, the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

Township district, and county officers.

Sec. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said territory.

Persons disqualified to hold office.

Sec. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who

Judicial power.

Supreme court.

shall hold a term at the seat of government of said territory annually, and they shall hold their offices during the period of four years. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of the justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction, and authority for redress of all wrongs committed against the constitution or laws of the United States, or of the territory, affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held.

**District court.** Writs of errors, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said courts. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the Uni-

**Jurisdiction.**

**Of Justices of the peace.**

**Of supreme and district courts.**

**Clerk of district court, and register in chancery.**

**Writs of error, &c.**

**Clerk of supreme court.**

**Writs of error, &c.**

ted States; and the said supreme and district courts of the said territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are grant-  
Habeas Corpus.  
 able by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of errors and appeals in all such cases shall be made to the supreme court of the said territory the same as in other cases. The said clerk shall receive, in all such cases, the same  
Fees of clerk.  
 fees which the clerks of the district courts of Nebraska Territory now receive for similar services.

Sec. 10. *And be it further enacted*, That there shall be ap-  
Attorney &c.  
 pointed an attorney for said territory, who shall continue in office for four years, unless sooner removed by the president, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Nebraska.— There shall also be a marshal for the territory appointed, who  
Marshal &c.  
 shall hold his office for four years, unless sooner removed by the president, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Nebraska, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

Sec. 11. *And be it further enacted*, That the governor, secretary, chief justice and associate justices, attorney, and marshal, shall be nominated and, by and with the advice and consent of the senate, appointed by the president of the United States. The governor and secretary to be appointed as  
Appointment of governor, &c.  
 aforesaid, shall, before they act as such, respectively take an oath or  
How qualified.  
 affirmation before the district judge, or some justice of the peace in the limits of said territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the

United States and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said territory, before they act as such, shall take a like oath or affirmation before the governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually traveled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor, to defray the contingent expenses of the territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws and other incidental expenses; and the secretary of the territory shall annually account to the secretary of the treasury of the United States for the manner in which the aforesaid sum shall have been expended.

Salaries:

Pay of the legislature.

Contingent expenses.

Expenses of legislative assembly, &amp;c.

Time and place of first session of legislature.

Sec. 12. *And be it further enacted*, That the legislative assembly of the Territory of Dakota, shall hold its first session at such time and place in said territory as the governor thereof

shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

Sec. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

Sec. 14. *And be it further enacted*, That when the land in said territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in the states hereafter to be erected out of the same.

Sec. 15. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify, such judicial districts, and assign the judges, and alter, the times and places of holding the courts, as to them shall seem proper and convenient.

Constitution and laws of United States made applicable.

Sec. 16. *And be it further enacted*, That the constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said territory of Dakota as elsewhere within the United States.

Surveyor General.

Sec. 17. *And be it further enacted*, That the president of the United States, by and with the advice and consent of the senate, shall be, and he is hereby authorized to appoint a surveyor-general for Dakota, who shall locate his office at such place as the secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor-general of Nebraska and Kansas, under the direction of the secretary of the Interior, and such instructions as he may from time to time deem it advisable to give him.

Land district.

Name and location.

Sec. 18. *And be it further enacted*, That so much of the public lands of the United States in the territory of Dakota, west of its eastern boundary and east and north of the Niobrara, or Running Water river, be formed into a land district, to be called the Yankton district, at such time as the president may direct, the land-office for which shall be located at such point as the president may direct, and shall be removed from time to time to other points within said district whenever, in his opinion, it may be expedient.

Register and receiver.

Sec. 19. *And be it further enacted*, That the president be, and he is hereby, authorized to appoint, by and with the advice and consent of the senate, a register and receiver for said district, who shall respectively be required to reside at the site of said office, and who shall have the same powers, perform the same duties, and be entitled to the same compensation, as are or may be prescribed by law in relation to other land offices of the United States.

Dakota river:

Sec. 20. *And be it further enacted*, That the river in said territory heretofore known as the "river aux Jacques," or "James river," shall hereafter be called the Dakota river.

Sec. 21. *And be it further enacted*, That until congress shall otherwise direct, that portion of the territories of Utah



and Washington between the forty-first and forty-third degrees of north latitude, and east of the thirty-third meridian of longitude west from Washington, shall be, and is hereby, incorporated into and made a part of the Territory of Nebraska.

Portions of  
Utah and Wash-  
ington added to  
Nebraska.

Approved, March 2, 1861.

## AMENDMENTS TO THE ORGANIC ACT.

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Executive power

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second section of the act to which this act is an amendment be altered so as to read as follows: The executive power and authority in and over said Territory of Colorado shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs; he may grant pardons for offences against the laws of said territory, and reprieves for offences against the laws of the United States, until the decision of the president can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.*

Duties of governor.

Duty of governor in relation to signing bills.

*Sec. 2. And be it further enacted, That every bill which shall have passed the legislative assembly shall, before it become a law, be presented to the governor of the territory; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large on their journal and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections to the other house, by which it shall likewise*

be reconsidered; and, if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return, in which case it shall not be a law.

Sec. 4. *And be it further enacted*, That the provisions of sections one and two of this act shall be applicable to the territory of Dakota, and shall have like effect as in the Territory of Colorado.

This law applicable to Dakota.

Approved, March 2, 1863.

## AUTHENTICATION.

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DAKOTA TERRITORY,  
Secretary's Office, Yankton. }

I, S. L. SPINK, Secretary of Dakota Territory, do hereby certify that I have delivered to Geo. W. Kingsbury, Public Printer, true and correct copies of all laws, Joint resolutions and Memorials, now on file in my office and passed at the sixth session of the legislative assembly of the Territory of Dakota, begun and held at Yankton, the capital of said Territory, on the 3d day of December, in the year of our Lord one thousand eight hundred and sixty-six.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the great seal of the Territory of Dakota.  
{ L. S. } Done at Yankton, this 20th day of February, in the year of our Lord one thousand eight hundred and sixty-seven.

S. L. SPINK,  
*Secretary of Dakota Territory.*

UNION AND DAKOTAIAN OFFICE, }  
DAKOTA TERRITORY, }  
February 20th, 1867.

I HEREBY certify that the general and private laws, memorials and joint resolutions herein contained, are true and correct copies of those delivered to me by the secretary, as stated in the preceding authentication.

GEO. W. KINGSBURY,  
Public Printer.

## GENERAL LAWS.

# GENERAL Laws of Dakota TERRITORY.

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## AMENDMENTS.

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### CHAPTER I.

AN ACT TO AMEND CHAPTER 71 OF SESSION LAWS OF 1862.  
CONFERRING POWERS UPON THE BOARD OF COUNTY  
COMMISSIONERS RESPECTING ROADS.

- Section 1. Section repealed. When, commissioners to have power  
to lay out roads through improved fields.
2. Duty of commissioners in such cases. Proviso.
  3. When owner or occupant shall remove fences, &c.
  4. When owner or occupant neglects or refuses to open  
road, commissioners to open same.
  5. Owner or occupant may be prosecuted by commissioners  
for neglect to open road.
  6. Compensation of commissioners.
  7. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory  
of Dakota:*

Section 2. [1.] That section two of chapter 71 of laws of 1862 Section repealed  
is hereby repealed and in lieu thereof;

When commissioners to have power to lay out roads through improved fields.

The said board of commissioners shall have power to lay out and open a road or roads through improved fields in any organized county of this Territory, where, and whenever, in the opinion of said board, the public convenience requires it, in accordance with the provisions as hereinafter provided.

Power of commissioners in such cases

Sec. 3. [2.] If the owner or occupant of any improved field (where a road is proposed to be laid) objects to laying and opening the same, as is provided in section three [two] of this act, it shall be the duty of said commissioners to appoint a time and place where said board will meet, and notify the party aggrieved, in writing, of such time and place, which notice shall not extend beyond ten days from the service thereof, and they shall, after hearing the allegations of the aggrieved party determine the amount of damages, if in their judgment any will accrue to the owner or occupant thereof, and draw their order on the county treasurer for such sum as may be awarded, payable out of any moneys in said treasury not otherwise appropriated; *Provided*, That in arriving at such determination and award the benefits to accrue to such owner or occupant by reason of opening said road are to be considered in making said award.

Proviso

When owner or occupant shall remove fences, &c.

Sec. 4. [3.] Whenever such road shall be surveyed and laid as is provided in this act, the said board of commissioners shall notify the owner or occupant thereof, whose duty it shall be to open said road, by removing the fences and other obstructions for the distance of two rods from the center thereof, as surveyed and marked by said commissioners.

When owner or occupant neglects or refuses to open road, commissioners to proceed to open same

Sec. 5. [4.] If the owner or occupant of such improved field refuse, or neglect to open, or cause the same to be done for a period beyond the first day of April, next ensuing after such notice of laying out said road, the said board of commissioners shall then proceed to open or cause to be opened, and it shall then be deemed a public highway and in all respects cared for as is provided by law for highways.

Owner or occupant may be prosecuted by commissioners for neglect to open road

Sec. 6. [5.] If the owner or occupant of any improved field shall neglect or refuse to open a road, as is provided in this act, the said board of commissioners may proceed to prosecute the said owner or occupant before any court having jurisdiction



thereof in such county where said road shall have been laied, and recover on conviction thereof, all damages and costs the said commissioners may have incurred by reason of such negligence or refusal.

Sec. 7. [6.] The said commissioners shall receive such compensation for their services as is provided by law for like services in laying and establishing roads. Compensation of commissioners

Sec. 8. [7.] This act shall take effect and be in force from and after its passage. When take effect

Approved, January 11th, 1867.

## CHAPTER II.

### AN ACT TO AMEND CHAPTER (39) THIRTY-NINE OF THE LAWS OF 1862.

Section 1. Relative to parties before they became residents of the Territory.

2. When to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

Section 1. That section 1 of chapter thirty-nine, of laws of 1862, be amended by inserting after the word "Territory" in the last line of said section, "before the said party or parties became residents thereof." Relative to parties before they became residents of the Territory

Sec. 2. This act shall be in force from and after its passage and approval by the Governor. When to take effect.

Approved, January 8th, 1867.

## CHAPTER III.

AN ACT TO AMEND AN ACT DEFINING BY WHOM ACKNOWLEDGMENTS MAY BE TAKEN IN THIS TERRITORY.

Section 1. Amending section 517 of civil code.

2. When to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

Amending Section 517 of Civil Code,

Section 1. That section five hundred and seventeen of article three, chapter four, of the civil Code, approved, January 12th, 1866, be, and the same is hereby amended, by adding in fourth line in said section after the word record, "or any clerk thereof."

When to take effect.

Sec. 2. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, January 8th, 1867.

## CHAPTER IV.

AN ACT TO AMEND AN ACT ENTITLED, AN ACT IN RELATION TO TERRITORIAL AND COUNTY REVENUE, APPROVED, JANUARY 12, 1866.

Section 1. Governor, Auditor and Treasurer, board of equalization.

2. Section 19 amended.

3. Sec. 21 amended.

4. Sec. 23 amended.

5. When board of equalization to meet.

6. Sec. 27 amended.

7. Sec. 28 amended.

8. Sec. 30 amended.

9. Sec. 31 amended.

10. Sec. 32 amended.

11. When county treasurer to settle with commissioners and territorial treasurer—compensation of county treasurer.
12. All after section 59 struck out. What added.
13. Time for collecting taxes in Clay county extended to last Monday in February, 1867.
14. An attested copy to be sent to Clay county.
15. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory  
of Dakota:*

Section 1. That section two (2) of chapter 24 of the laws of 1865-66, be and the same are hereby amended so as to read as to constitute the Governor, Auditor and Treasurer, as a Territorial board of equalization of taxes. Governor, Auditor and Treasurer, board of Equalization

Sec. 2. That section 19, lines one and two be amended so as to read "first Monday of April," instead of "first Monday of February." Section 19, amended

Sec. 3. That section 21, line six, be amended so as to read "first Monday of May," instead of "first Monday of February." Section 21, amended

Sec. 4. That section 23, line two, be amended so as to read "first Monday of June," instead of "second Monday of February." Sec. 23, amended

Sec. 5. That section 24 be so amended as to require the Governor, Auditor and Treasurer to meet for the equalization of taxes on the "first Monday of July," instead of "third Monday of February." When Board of Equalization to meet.

Sec. 6. That section 27, line five, be amended so as to read "first Monday of December," instead of "last Monday of March." Sec. 27, amended

Sec. 7. That section 28, line four, be amended so as to read "said first Monday of December," instead of "said last Monday of March." Sec. 28, amended

Sec. 8. That section 30, line one, be amended so as to read "first Monday of January," instead of "first Monday of April." Sec. 30, amended

Sec. 9. That section 31, line two, be amended so as to read

Sec. 31, amended "first Monday of December," instead of "last Monday of March"; and the third and fourth lines of the same section are hereby amended so as to read "first Monday of January," instead of "first Monday of April;" and line six of same section is hereby amended so as to read "first Monday of December," instead of "first of May."

Sec. 32, amended Sec. 10. That section 32, line one, be amended so as to read "first Monday of January," instead of "first Monday of September."

When County treasurer to settle with Commissioners and Territorial treasurer Sec. 11. That section 57, be amended so as to read as follows:

The county treasurer shall in January of each year make a full and complete settlement with the county commissioners, and on or before the last Monday in January, he shall make a full and complete settlement with the Territorial treasurer, in which settlement he shall be allowed for his services as county treasurer four per cent. of the amount of the Territorial tax paid by his county, and mileage at the rate of ten cents per mile, for every mile necessarily traveled in going from the county seat of his county to the capital of the Territory.

Compensation of County treasurer

All after section 59 strike out. What added.

Sec. 12. Strike out all after section 59, and add the following:

Section 60. All provisions of acts in conflict with this act are hereby repealed.

Section 61. This act shall take effect and be in force from and after its passage and approval. Approved, January 12, 1866.

Time for collecting taxes in Clay county extended to last Monday in February 1867,

Sec. 13. That the time for collecting the taxes for 1866, in Clay county, be extended to the last Monday in February, 1867.

An attested copy to be sent to Clay county.

Sec. 14. That an attested copy of this bill be sent to the proper officer of Clay county.

When act to take effect.

Sec. 15. This act shall be in force from and after the first Monday of January, 1867.

Approved, January 11th, 1867.

## CHAPTER V.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE HISTORICAL SOCIETY OF DAKOTA," APPROVED DEC. 24, 1863.

Section 1. Annual meeting held on first Tuesday of January. When held. Quorum. Officers to be elected:

2. When to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota.*

Section 1. That Section four of an act entitled an "Act to incorporate the Historical Society of Dakota," be and the same is hereby amended so as to read as follows: That on the first Tuesday of January in each year there shall be held an annual meeting of the members of the Historical Society of Dakota, in the hall of the House of Representatives; at which meeting twelve members shall constitute a quorum for the transaction of business, and at said meeting the annual report of the Society shall be submitted and the following officers elected for the ensuing year, to-wit: a president, two vice presidents, one secretary, a treasurer, librarian and such other officers as the Society may then determine.

Annual meeting held on first Tuesday of January. Where held. Quorum, Officers to be elected.

Sec. 2. This act shall take effect from and after its approval by the Governor.

When to take effect

Approved, December 24th, 1866.

## CHAPTER VI.

AN ACT TO AMEND CHAPTER 26 OF THE LAWS OF 1865 AND 1866.

Section 1. Parts of chapter 26, laws of 1865 and 1866, relating to certain road, repealed.

2. Portion of certain road in Clay county declared a public highway.
3. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Parts of chapter 26 laws of 1865-66, relating to certain road repealed.

Section 1. All that portion of the road, under the title in chapter 26 of laws of 1865 and 66, "Thence as follows in Clay county" commencing at a stake in mound which is station 15 under said title running thence easterly on said line to a stake in mound about 20 rods west of the residence of J. L. Fisher, at Green Point, in Clay county, be and the same is hereby repealed.

Portion of certain road in Clay county declared a public highway.

Sec. 2. All that portion of a road surveyed by George Stickney, in the year 1865, under the direction of J. W. Turner, Miles Russell and Benjamin Shepherd, appointed by the board of county commissioners of Clay county, to lay out and establish a road from the east line of Clay county to William Benedicts, to-wit: commencing at station 15 as mentioned in section one of this act and following said Stickney's survey to Green Point, be, and the same is hereby declared to be a public highway, the width of which shall be the same as is provided in said chapter 26.

When act to take effect,

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved, January 11th, 1867.

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## CHAPTER VII.

### AN ACT TO AMEND CHAPTER TWENTY-SEVEN, OF THE LAWS OF 1865 AND 66.

- Section 1. Time for location of Territorial road, extended until June 1st, 1867.
2. When to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Section 1. That Barney McGraw, John Reams and I. T. Gore, the commissioners named in said chapter, shall have until the first day of June, 1867, to locate, survey and establish the Territorial road established by said chapter, and that the surveyor of said road, shall, on or before the first day of July, 1867, file in the office of the register of deeds of Union county, a plat of said road.

Time for location of territorial road extended to June 1st, 1867.

Sec. 2. This act shall take effect from and after its passage and approval by the Governor.

When to take effect.

Approved, January 4th, 1867.

## CHAPTER VIII.

AN ACT SUPPLEMENTARY TO AN ACT ENTITLED, AN ACT TO PROVIDE FOR THE PRINTING AND DISTRIBUTION OF THE LAWS AND JOURNALS.

Section 1. Act of 1865 and 1866 amended. Precinct officers to be furnished with books. Expenses of transportation of books.

2. Acts repealed.

3. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Section 1. That in sections five and six of chapter 21, of the laws of 1865-6, after the words "county officers," wherever they appear in said sections, there shall be inserted the words "and precinct officers," so that the secretary of this territory shall be authorized to furnish to each precinct officer, a copy of the laws passed by the last preceding session of the Legislative Assembly. And it shall be the duty of the register of deeds of each county, upon making his requisition upon the secretary of

Act of 1865-66 annulled.

Precinct officers to be furnished with books.

the territory for the number of copies of the laws, required by the officers of his county, to designate in such requisition the manner in which such books shall be forwarded from the office of the said Secretary to the place designated by the said register, to provide at the expense of his county, the means for defraying the expense of such transportation of said books, so that the said Secretary shall in no way be responsible therefor.

Expense of  
transportation  
of books.

Acts repealed.

Sec. 2. All acts and parts of acts inconsistent with this act [are] hereby repealed.

When act to  
take effect.

Sec. 3. This act shall take effect and be in force from and after its passage and approval.

Approved January 11, 1867.

## CHAPTER IX.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT PROVIDING FOR ELECTIONS, AND TO PRESCRIBE THE CANVASS AND RETURNS OF THE SAME," APPROVED, JANUARY 6, 1866.

Section 1. Legal voters may vote in precinct in the Territory, at general or special election. New precincts established. Duty of Governor to appoint certain officers.

2. Section 49 of certain law repealed.

3. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Legal voters  
may vote in  
precinct in the  
territory at  
general or  
special election.

Section 1. That all residents of this Territory possessing the qualifications required by law for a voter, shall have the right to vote at any authorized precinct in this Territory at any general or special election, for Delegate to Congress and all Territorial officers. And there shall be established at Fort Thompson, Fort Sully, New Fort Sully, Fort Rice, and the town of Sioux Falls in the county of Minnehaha, election precincts, and they shall be attached to Buffalo county for election,

New precincts  
established.



representative and judicial purposes, except the precinct of Sioux Falls. The Governor shall appoint judges and clerk[s] of elections for said precincts having the requisite qualifications under the election law. He shall also appoint three county commissioners for Buffalo county for the term of one, two, and three years.

*Duty of Governor to appoint certain officers.*

Sec. 2. That section 49, of an act entitled, an act providing for elections, and to prescribe the canvass and returns of the same, approved, January 6th, 1866, is hereby repealed.

*Sec. 49 of certain law repealed*

Sec. 3. This act shall take effect and be in force from and after its passage.

*When act to take effect.*

Approved, January 11th, 1867.

## CHAPTER X.

### AN ACT TO AMEND CHAPTER THIRTY-ONE OF THE SESSION LAWS OF 1865-6.

Section 1. James S. Foster appointed Superintendent of schools for two years.

2. Superintendent to file oath with clerk of supreme court.
3. Superintendent to keep record of his acts, to visit schools and furnish blanks to county superintendents. To present report to legislature. What report to contain.
4. To grant certificates to teachers.
5. When superintendent to be elected and for how long.
6. Compensation and expenses of office.
7. Territorial and county superintendents to select text books for school. List to be published.
8. Annual report, how distributed.
9. County superintendents to be elected. Compensation. Make oath to account. County to allow account. Statistical returns to be filed with auditor.
10. County superintendents to take oath. Where oath filed. To execute bond.

11. Districts may be divided, how. When district formed from two or more counties.
12. Duty of judge of probate.
13. County superintendent to apportion public money. How apportioned. Proviso.
14. County superintendent to visit schools. His duties at such times. To furnish copy of account for official services to county superintendents.
15. To see that reports of clerks of districts are correct.
16. When to hold public examinations for teachers. To grant certificates. What certificates to state.
17. Duty of superintendent when district is formed. Right of appeal. To whom appeals made.
18. Other duties of county superintendent.
19. When vacancy occurs in office of superintendent
20. County superintendent to make annual returns to territorial superintendent. What report to state.
21. What powers the voters at school district meeting shall have.
22. Who entitled to vote at a district meeting.
23. When voter challenged. Form of oath to be administered.
24. When school district deemed organized. Penalty for refusing to act as school district officer after being elected.
25. Officers of school district. Shall constitute district board.
26. District body corporate. Style of same. Powers as such.
27. Annual meetings. Special meetings how called.
28. How to proceed when time for annual meeting shall have passed.
29. Voters may determine length of time school to be taught during the ensuing and how money to be applied.
30. Duties of Director.
31. Duties of clerk.
32. When clerk absent from meeting.
33. Clerk to give notice of meetings. How given. Notice of special meeting.
34. Clerk to draw orders on treasurer.
35. Clerk to make out tax lists &c.
36. Clerk to make annual report to county superintendent. What report to contain.
37. Clerk making report when district lies in two or more counties.

38. Treasurer to execute bond. Amount and conditions.  
Where filed &c.
39. When district board may appoint a treasurer.
40. Treasurer to receive money apportioned to his district and collect taxes.
41. When treasurer shall neglect or refuse to pay over money.
42. When by neglect of treasurer, school money shall be lost.
43. Treasurer to make annual report. What report to contain.
44. District board to procure school houses and sites for same.  
Other duties.
45. Shall have care of school property. Librarian.
46. May admit scholars from adjoining districts.
47. Shall hire teachers. Contract to be in writing.
48. Shall provide appendages for school house. Expenses.
49. Schools free.
50. What to be taught.
51. When vacancy occur in school board.
52. Amount district taxes. Collected and distributed.
53. Taxes assessed.
54. How tax lists made out. What to contain.
55. When district board to estimate and apportion taxes.
56. What warrant annexed to tax list to contain.
57. Force and effect of warrant.
58. District board may correct errors in tax list.
59. When tenant pays tax on real estate.
60. Duty of county clerk when assessment roll shall have been completed.
61. How graded schools formed.
62. Powers of boards of directors of graded schools.
63. Union district entitled to equitable share of school funds.
64. Union district may levy taxes, for what purposes.
65. Report of clerk, to treasurer.
66. Report of superintendent. other duties.
67. Duties of treasurer.
68. Public schools in city, town or village.
69. Single districts may establish graded schools.
70. Duty of county treasurer. Delinquent taxes. Penalty against county treasurer in certain cases.
71. Duties of teachers at expiration of term of school. Penalty for neglect or refusal.

72. Penalty against clerk in certain cases.
73. Penalty against treasurer.
74. When final judgment obtained against school district.  
How paid.
75. Jurisdiction of justices of the peace under this act.
76. No compensation to be paid to school officer.
77. Penalty against officer for not serving after elected.
78. How fines and penalties collected.
79. When money donated for educational purposes.
80. Form of notice for first district school meeting.
81. Form of notice for annual district meeting.
82. Form of order on district treasurer.
83. Form of bond.
84. Form of warrant for the collection of district tax.
85. Form of voucher.
86. Form of contract.
87. Form of annual report of district treasurer.
88. Form of report of district clerk to county superintendent.
89. Form of teachers certificate.
90. Form of deed of school property. Form of acknowledgment to deed.
91. Acts repealed.
92. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of  
Dakota.*

That chapter thirty-one of the session laws of 1865-6, be amended so as to read as follows :

James S. Foster  
appointed  
superintendent  
of schools for  
two years.

Section 1. That James S. Foster is hereby appointed superintendent of Public instruction for the Territory of Dakota, and shall hold his office for the term of two years from January 1st, 1867, and until his successor is elected and qualified.

Superintendent  
to file oath with  
clerk of supreme  
court.

Sec. 2. The superintendent of Public Instruction, shall, before entering upon the discharge of the duties of his office, take and subscribe an oath to support the Constitution of the United States, and the Organic Act of this Territory, and to faithfully discharge the duties of his office, which oath shall be filed with the clerk of the supreme court of the Territory of Dakota.

Sec. 3. It shall be the duty of the superintendent of Public Instruction to keep a record of his official acts, and to exert himself constantly and faithfully to promote the interests of education in the Territory, and to this end he shall confer with county superintendents and visit schools in company with them and furnish to them blank forms for collecting statistics of the various schools in the Territory. He shall prepare and present to the Legislature during the first week of the session, in each year, a report of his official doings for the preceding year with a full statement of the condition of common schools in the Territory, and of the expenditure of the public school moneys and shall make such suggestions for the improvement and support of common schools together with such other information in regard to the modes of instruction and systems of the organization of schools in other States and countries as he shall deem proper.

Superintendent to keep record of his acts, to visit schools and furnish blanks to county superintendents

To present report to legislature.

What report to contain.

Sec. 4. The superintendent of public instruction, shall also have power to grant certificates of qualification to teachers of proper learning and ability to teach in any public school in the Territory.

To grant certificates to teachers.

Sec. 5. There shall be elected at each regular Delegate election in this Territory, a superintendent of Public Instruction, who shall hold his office for two years and until his successor is elected and qualified.

When superintendent to be elected and for how long.

Sec. 6. The compensation of the superintendent of Public Instruction for his services shall be the sum of three dollars per day for the time spent in the discharge of his official duties, and the expense of procuring blank forms, and postage, and such books as are necessary for the use of his office, and the publication of his annual report, all of which allowances shall be paid by the Territorial treasurer on the certificate of the Territorial auditor.

Compensation and expense of office.

Sec. 7. The Territorial superintendent of Public Instruction, and the county superintendent for each county, shall select a set of text books for the use of the schools in each county, and recommend the same to be used in all the schools in such county and shall cause such list of text books to be published in the newspapers of the Territory, in the month of September, of each year.

Territorial and county superintendents to select text books for school

List to be  
published.

**Sec. 8.** The superintendent of Public Instruction, shall, annually, prepare a sufficient number of his annual report to be distributed as follows :

Annual report  
how distributed

One copy to each member of the legislature, one copy to each county superintendent, one copy to each school district officer, and one copy to each teacher in the territory, whose certificate of qualifications has not expired. And distribute to county and territorial officers, and others, not exceeding five hundred copies in each year.

#### DUTIES OF COUNTY SUPERINTENDENTS.

County  
superintendents  
to be elected,

**Sec. 9.** The several counties in this Territory shall, at their annual election, elect a competent person to be superintendent of public schools within such county, who shall hold his office during the school years commencing on the first of November, or until his successor is elected and qualified; who shall receive for his services three dollars for each day spent in the discharge of his legal duties, of his and a reasonable sum for his annual report to the superintendent of Public Instruction; and every superintendent of schools shall make out in detail his account for official service, stating the date and time spent as well as the kind of service rendered, and make oath or affirmation to the correctness of the same, before some justice of the peace in the county in which he resides, which oath or affirmation shall be certified by said justice before such superintendent's account shall be presented to the county commissioners for allowance, who shall audit and allow the same, or so much thereof as is just and reasonable, and the same shall be paid out of the county treasury upon the order of the county commissioners who are empowered to draw orders for the same; but no order shall be drawn to any superintendent until he shall have filed with the auditor, the receipt of the superintendent of public instruction for the statistical returns of the preceding school year, in pursuance of the requirements of section twenty, of this act.

Compensation.

Make oath to  
account.

County  
commissioners  
to allow  
account.

Statistical re-  
turns to be  
filed with  
auditor

County superin-  
tendents to take  
oath.

**Sec. 10.** The county superintendent of public schools shall have charge of the common school interests of the county. He shall, before he enters upon the discharge of the duties of his office, take and subscribe an oath or affirmation to support

the constitution of the United States, and the act organizing this Territory, and faithfully to discharge the duties of his office, which oath or affirmation shall be filed in the county clerk's office. He shall also execute a bond with approved security, payable to the board of county commissioners, for the use of common schools in said county, in the penal sum of five hundred dollars. Said bond must be approved by the county commissioners, and filed in [the] county clerk's office.

Where oath  
filed  
To execute  
bond.

Sec. 11. That it shall be the duty of the county superintendent of schools, in addition to the other duties required of him, to divide his county into school districts when necessary, and subdivide the same when petitioned by a majority of the citizens thereof, and to furnish the county commissioners of such county with a written description of the boundaries of each district, which description must be filed in [the] county clerk's office, before such district shall be entitled to proceed with its organization by the election of school district officers. Whenever it shall be deemed necessary to form a school district from parts of two or more counties, it shall be the duty of the county superintendent of each county in which any part of the proposed joint district shall be situated, to unite in laying out such joint district; and each county superintendent so assisting shall file a description of said joint district in the county clerk's office of his county.

Districts may be  
divided, how.

When district  
formed from two  
or more counties

Sec. 12. It shall be the duty of the judge of probate, on the first Monday of April in each year, to furnish the county superintendent of public schools with a statement of the amount of money in the county treasury, belonging to the school fund, and he shall pay the same upon the order of said superintendent, to the proper district officers.

Duty of judge of  
probate.

Sec. 13. It shall be the duty of the county superintendent of public schools on the second Monday in April, in each year, or as soon thereafter as he shall receive the statement of the judge of probate, certifying the amount of money in the county treasury, for the use of common schools for the current year, to apportion such amount to the several districts or parts of districts within the county, in proportion to the number of

County superin-  
tendent to apportion public mon-  
ey.

children residing in each, over the age of five, and under the age of twenty-one years, as the same shall appear from the last annual reports of the clerks of the respective districts, and he shall draw his order on the county treasurer in favor of the several district treasurers for the amount apportioned to each district; *Provided*, No district shall be entitled to receive any portion of the common school fund in which a common school has not been taught at least three months during the year.

**Provide,**

**County superintendent to visit schools.**

Sec. 14. It shall be the duty of the county superintendent, to visit all such common schools within their respective counties as shall be organized according to law, at least once in each year, or oftener if they shall deem it necessary. At such visitation the superintendents shall examine into the state and condition of such schools, as respects the progress in learning and the order and government of the schools; and they may give advice to the teacher of such schools as to the government thereof, and the course of study to be pursued therein, and shall adopt all requisite measures for the inspection, examination and regulation of the schools, and for the improvement of the scholars in learning. Every superintendent of common schools shall also make out his account for official services in the manner hereinbefore required, and deliver a copy of the same to the county commissioners of the county, in which such superintendent was elected or appointed, on or before the day previous to the annual county election next after the election or appointment of such superintendent, and the same shall be filed and kept in the office of the county clerk.

**His duties at such times.**

**To furnish copy of account for official services to county superintendents.**

**To see that reports of clerks of districts are correct.**

Sec. 15. He shall see that the annual reports of the clerks of the several school districts in his county are made correctly and in due time.

**When to hold public examinations for teachers  
To grant certificates.**

Sec. 16. He shall hold public examination for all persons offering themselves as teachers of common schools, at the county seat of his county, on the last Saturdays of April and October of each year, notice of which shall be given as publicly as possible; at which time he shall grant certificates for not less than three months or more than one year, to such persons as he may find qualified as to moral character, learning and ability; and any person receiving such certificate shall be deemed a quali-



fied teacher within the meaning of this act. Persons applying to the county superintendent for a certificate at any other time than at the public examination shall pay to the said superintendent the sum of one dollar for his services.

What certificates to state.

Sec. 17. Whenever a school district shall be formed in any county, the county superintendent of schools of such county shall, within fifteen days thereafter, prepare a notice of the formation of such district, describing its boundaries, and stating the number thereof, and appointing a time and place for the district meeting. He shall cause the notice thus prepared to be posted in at least five public places in the district, at least ten days before the time appointed for such meeting, that a majority of the voters in any school district, being dissatisfied with the formation of any school district shall have the right to appeal from the superintendent to the board of county commissioners, and from the board of county commissioners to the superintendent of public instruction.

Duty of superintendent when district is formed.

Right of appeal. To whom appeals made.

Sec. 18. The county superintendent of public schools shall perform all other duties of his said office that now are or hereafter may be prescribed by law; and he shall deliver to his successor, within ten days after the expiration of his term of office, all the books appertaining to his office.

Other duties of county superintendent.

Sec. 19. If a vacancy occurs in the office of county superintendent of public schools, by death, resignation or otherwise, notice thereof shall be given by the county clerk, to the county commissioners who shall, as soon as practicable, appoint some suitable [person] to fill the vacancy, and the person receiving such appointment shall, before entering upon the discharge of the duties of his office, file his oath or affirmation in the county clerk's office, as hereinbefore provided, and he shall discharge all the duties of the office of county superintendent of public schools until a successor is elected and qualified. He shall also give a like bond to that required by this act to be given by the county superintendent of schools.

When vacancy occurs in office of superintendent.

Sec. 20. The county superintendent shall make full and complete annual returns to the superintendent of public instruction, between the first and tenth day of November of each year, of the number of children between the ages of five and twenty,

County superintendent to make annual returns to territorial superintendent.

What report to  
state

in the school districts within their respective counties; also, the number of qualified teachers employed, the length of time each district school has been taught during the year; the kind of text books used, and the amounts expended in each district, out of any moneys raised for educational purposes, and for what purpose such amount was expended, the amounts raised in each county and district by taxation or otherwise for educational interests, and any other items that may be of service to the superintendent of public instruction, in preparing his annual report.

#### SCHOOL DISTRICT MEETINGS.

What powers the  
voters at a school  
district meeting  
shall have.

Sec. 21. The inhabitants qualified to vote at a school district meeting, lawfully assembled, shall have power:

1. To appoint a chairman to preside at said meeting in the absence of the director.

2. To adjourn from time to time.

3. To choose a director, clerk, and treasurer, who shall possess the qualifications of voters as prescribed in the next section of this act, at the first and each annual meeting thereafter.

4. To designate by vote a site for a district school house.

5. To vote a tax annually, not exceeding one per cent. on taxable property in the district, as the meeting shall deem sufficient to purchase or lease a site and to build, hire or purchase a school house, and to keep in repair and furnish the same with necessary fuel, stoves and benches.

6. To vote a district tax annually, not exceeding one half of one per cent. on the taxable property in the district for the pay of teachers' wages in the district.

7. To authorize and direct the sale of any school house, site, or other property belonging to the district, when the same shall no longer be needful for the district.

8. To vote such a tax as may be necessary to furnish the school house with blackboards, outline maps, and apparatus necessary for illustrating the principles of science, or to discharge any debts or liabilities of the district, lawfully incurred; *Provided*, The said tax shall not exceed one per cent. per annum, and may be applied to any other purpose by a vote of the district at any regularly called meeting.

9. To give such direction and make such provision as may

be deemed necessary in relation to the prosecution or defense of any suit or proceeding in which the district may be a party.

10. To alter or repeal their proceedings from time to time as occasion may require, and to do any other business contemplated in this act.

Sec. 22. The following persons shall be entitled to vote at any district meeting:

Who entitled to vote at a district meeting.

All persons possessing the qualifications of electors, as defined by the laws of the Territory, and who shall be actual residents of the district at the time of offering to vote at such election.

Sec. 23. If any person offering to vote at a school district meeting shall be challenged as unqualified by any legal voter, the chairman presiding shall declare to the person challenged the qualifications of a voter, and if such challenge be not withdrawn, the chairman, who is hereby authorized, shall tender to the person offering to vote, the following oath or affirmation:

When voter challenged.

"You do solemnly swear (or affirm) that you are an actual resident of this district, and that you are qualified by law to vote at this meeting." Any person, taking such oath or affirmation, shall be entitled to vote on all questions voted upon at such meeting.

Form of oath to be administered.

#### ORGANIZATION OF DISTRICTS.

Sec. 24. Every school district shall be deemed duly organized when the officers constituting the district board shall be elected; they shall signify their acceptance to the county superintendent, in writing, which he shall file in his office. Every person duly elected to the office of director, clerk, or treasurer of any school district, who shall refuse or neglect, without sufficient cause, to accept of such office and serve therein, or who, having entered upon the duties of his office shall neglect or refuse to perform any duty required of him by the provisions of this act, shall forfeit the sum of ten dollars, to the school district fund.

When school district deemed organized.

Penalty for refusing to act as school district officer, after being elected.

Sec. 25. The officers of each school district, shall be a director, clerk, and treasurer, who shall constitute the district board, and who shall hold their respective offices until the annual meeting next following their election or appointment, and until their successors are elected and qualified.

Officers of school district.

Shall constitute district board.

District body corporate.

Sec. 26. Every school district, organized in pursuance of this act, shall be a body corporate, and shall possess the usual powers of a corporation for public purposes, by the name and style of school district No.....(such number as may be designated by the county superintendent), .....county (the name of the county in which the district is situated,) Territory of Dakota, and in that name may sue and be sued, and be capable of contracting and being contracted with, and holding such real and personal estate as it may come in possession of by will or otherwise, or is authorized to be purchased by the provisions of this act.

Style of same.

Powers as such.

Annual meeting.

Sec. 27. An annual meeting of each school district shall be held on the last Saturday of September of each year, at such hour as the district board shall name. Special meetings may be called by any member of the district board, or by any five legal voters, but notice of such special meeting, stating the purpose for which it is called, shall be posted in at least three public places within the district, ten days previous to the time of meeting.

Special meetings how called.

How to proceed when time for holding annual meeting shall have passed.

Sec. 28. Whenever the time for holding an annual meeting in any district shall pass without such meeting being held, the clerk, or, in his absence, any other member of the district board, within twenty days after the time for holding said annual meeting shall have passed, may give notice of a special meeting by putting up written notices thereof in three public places within the district, at least five days previous to the time of meeting; but if such meeting shall not be notified within twenty days as aforesaid, the county superintendent may give notice of such meeting in the manner provided for forming new districts, and the officers chosen at such special meeting shall hold their offices until the next annual meeting, and until their successors are elected and qualified.

Voters may determine length of time a school to be taught during the ensuing year, and how money to be applied.

Sec. 29. The qualified voters at each annual meeting or at any special meeting, duly called, may determine the length of time a school shall be taught in their district for the then ensuing year, and whether such school shall be taught by a male or female teacher or both, and whether the school money to which the district may be entitled, shall be applied to the support of

the summer or winter term of the school, or a certain portion to each, but if such matters shall not be determined at the annual, or any special meeting, it shall be the duty of the district board to determine the same.

Sec. 30. The director of each district shall preside at all district meetings, and shall sign orders drawn by the clerk authorized by a district meeting, or by the district board, upon the treasurer of the district for moneys collected or received by him to be disbursed therein. He shall appear for and in behalf of the district in all suits brought by or against the district, unless other direction shall be given by the voters of such district, at a district meeting.

Duties of director.

#### DISTRICT CLERK.

Sec. 31. The clerk of each district shall record the proceedings of his district in a book provided by the district for that purpose, and enter therein copies of all the reports made by him to the county superintendent, and he shall keep and preserve all records, books and papers belonging to his office, and deliver the same to his successor in office.

Duties of clerk.

Sec. 32. The said clerk shall be clerk of all district meetings when present; but if such clerk shall not be present at such district meeting, the voters present may appoint a clerk of such meeting, who shall certify the proceedings thereof, and the same shall be recorded by the clerk of the district.

When clerk absent from meeting.

Sec. 33. It shall be the duty of the clerk, to give at least ten days notice previous to any annual or special district meeting, by posting up notices thereof at three or more public places in the district, one of which notices shall be affixed to the outer door of the school house, if there be one in the district, and said clerk shall give the like notice of every adjourned meeting, when such meeting shall have been adjourned for a longer period than one month. Every notice for a special district meeting shall specify the objects for which such meeting is called, and no business shall be acted upon at any special meeting, not specified in said notice.

Clerk to give notice of meetings. How given.

Notice of special meeting.

Sec. 34. The clerk of the district shall draw orders on the treasurer of the district, for moneys in the hands of such treasurer.

Clerk to draw orders on treasurer.

urer, which have been apportioned to or raised by the district to be applied to the payment of teacher's wages, and apply such money to the payment of teacher's wages as shall have been employed by the district board, or by the citizens of the district, and the said clerk shall draw orders on the said treasurer for moneys in the hands of such treasurer to be disbursed for any other purpose ordered by a district meeting, or by a district board, agreeable to the provisions of this act.

Clerk to make  
out tax lists &c.

Sec. 35. It shall be the duty of the clerk to make out the tax lists of all taxes legally authorized by the district, and annex to such tax lists a warrant under the hand of said clerk, directed to the said treasurer of said district, requiring said treasurer to collect the sums therein named.

Clerk to make  
annual report to  
county superintendent.

Sec. 36. The clerk of each district shall, between the first and fifteenth days of September in each year, make out and transmit a report in writing to the county superintendent of public schools, showing :

What report to  
contain.

1. The number of children, male and female, designated separately, residing in the district or parts of districts, on the last day of August previous to the date of such report, over the age of five and under the age of twenty-one years.

2. The number of children attending school during the year, their sex, and branches studied.

3. The length of time a school has been taught in the district by a qualified teacher, the name of the teacher, the length of time taught, and the wages paid.

4. The amount of money received from the county treasury within the year, and the manner in which the same has been applied.

5. The amount of money raised by the district, in such year, and the purposes for which it was raised.

6. The kind of books used in the school, and such other facts and statistics in regard to the district schools as the county superintendent may require.

Clerk making re-  
port when dis-  
trict lies in two  
more counties.

Sec. 37. Whenever a school district shall lie partly in two or more counties, the clerk of such district [in] making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district and

shall report to the county superintendent of common schools of each of the counties in which such district may be situated.

Sec. 38. The treasurer shall execute to the district a bond in double the amount of money, as near as can be ascertained, to come into his hands as treasurer of the district during the year, with sufficient securities to be approved by the director and clerk, conditioned to the faithful [discharge] of the duties of said office. Such bond shall be filed with the district clerk, and in case of the breach of any condition thereof, the director shall cause a suit to be commenced thereon, in the name of the district, and the money collected shall be applied by such director to the use of the district as the same should have been applied by the treasurer, and if such director shall neglect or refuse to prosecute, then any householder of the district may cause such prosecution to be instituted.

Treasurer to execute bond.  
Amount & conditions.

Where filed &c.

Sec. 39. If the treasurer shall fail to give bonds as required in this act, or from sickness or any other cause, shall be unable to attend to the duties of said office, the district board shall appoint a treasurer, who shall possess all the powers of the district treasurer, and shall before entering upon the duties of said office, give bonds as the district treasurer is required to give.

When district board may appoint a treasurer

Sec. 40. The treasurer of each district shall apply for and receive from the county treasurers all school moneys apportioned to his district, and shall collect all district taxes assessed in pursuance of the provisions of this act and pay over on the order of the clerk, signed by the directors of such district, all money so received or collected by the said treasurer.

Treasurer to receive money apportioned to his district, and collect taxes.

Sec. 41. If any district treasurer shall refuse or neglect to pay over any money in the hands of such treasurer belonging to the district, it shall be the duty of his successor in office to prosecute without delay the official bond of such treasurer, for the recovery of such money.

When treasurer shall neglect or refuse to pay over money.

Sec. 42. If by neglect of any treasurer any school moneys shall be lost to any school district, which might have been received from the county treasurer, or collected from the district tax assessed, said treasurer shall forfeit to such district the full amount of money so lost.

When by neglect school moneys shall be lost.

Treasurer to  
make annual  
report.

What report to  
contain.

Sec. 43. The treasurer shall present to the district at each annual meeting, a report in writing, containing a statement of all moneys collected by him from the county treasurer during the year from assessments in the districts, and the disbursements made, and exhibit the vouchers therefor, which report shall be recorded by the clerk, and if it shall appear that any balance of money is in his hands at the time of making such report, he shall immediately pay such balance to his successor.

[DISTRICT BOARD.]

District board  
to procure  
school houses  
and sites for  
same.

other duties.

Sec. 44. The district board shall purchase or lease such a site for a school house as shall have been designated by voters at a district meeting, in the corporate name thereof, and shall build, hire, or purchase such school house, as the voters of the district in a district meeting shall have agreed upon, out of the funds provided for that purpose, and make sale of any school house site or other property of the district, and if necessary, execute a conveyance of the same in the name of their office when lawfully directed by the voters of such district at any regular or special meeting, and shall carry into effect all lawful orders of the district.

Shall have care  
of school prop-  
erty.  
Librarian.

Sec. 45. The district board shall have the care and keeping of the school house and other property belonging to the district. They shall have power to make such rules and regulations relating to the district library, as they may deem proper, and to appoint some suitable person to act as librarian, and to take charge of the school apparatus belonging to the district.

May admit  
scholars from  
adjoining  
districts.

Sec. 46. The district board shall have power to admit scholars from adjoining districts, and remove scholars for disorderly conduct.

Shall hire teach-  
ers  
Contract to be  
in writing.

Sec. 47. The district board in each district shall contract with and hire qualified teachers for and in the name of the district, which contract shall be in writing, and shall specify the wages per week or month, as agreed upon by the parties and such contract shall be filed in the district clerk's office.

Shall provide  
appendages for  
school house.

Sec. 48. The district board shall provide the necessary appendages for the school house, during the time school is taught therein, and shall keep an accurate account of all expenses



thus incurred, and present the same for allowance at any regular district meeting. Expenses.

Sec. 49. The district schools established under the provisions of this act, shall at all times be equally free and accessible to all the white children resident therein over five and under the age of twenty-one years, subject to such regulations as the district board in each may prescribe. School free.

Sec. 50. In every school district there shall be taught orthography, reading, writing, English grammar, geography and arithmetic, if desired, during the time the school shall be kept, and such other branches of education as may be determined by the district board. What to be taught.

Sec. 51. If a vacancy should occur in the district board, in any district, the county superintendent shall appoint some suitable person to fill such vacancy. When vacancy occur in school board.

#### DISTRICT TAXES.

Sec. 52. The amount of district taxes shall not exceed two per cent. per annum. It shall be the duty of the county assessor of each county, at the time of making the annual assessment, to levy a tax of one dollar on each elector in the county, for the support of district schools; and, a further tax of two mills on the dollar, upon the taxable property of the county, to be applied to the same purpose, to be collected at the time and in the manner prescribed by law for the collection of taxes; which tax, when collected shall be distributed to the several school districts, in proportion to the number of children over five and under twenty-one years of age therein; and shall be drawn from the county treasury upon the order of the superintendent of schools. When there shall have been districts laid out, and not organized it shall be the duty of the county superintendent to ascertain the number of children between the ages of five and twenty-one years, and apportion to and deposit with the county treasurer such amounts as said unorganized districts would have been entitled to if duly organized, which may be drawn on the order of the district board, when said district shall have been duly organized, and a public school maintained three months, if within two years from the time said money is deposited with the county treasurer, and if Amount district taxes.

Collected and distributed.

What disposition made of school funds of unorganized districts, &c.

not organized as above, the county superintendent may apportion the money so deposited among the organized districts of said county in his next annual report; *Provided*, If any scholars of any organized or unorganized district shall attend the district school of any other district, there being no school in the district to which they belong, the superintendent shall apportion them *pro rata* to the district to which they attend school.

**Taxes assessed.**

Sec. 53. All taxes raised and collected in any school district for any of the purposes authorized in this act, shall be assessed on the same kind of property as taxes for county purposes are assessed.

**How tax lists made out,**

**What to contain**

Sec. 54. The clerk of the school district, in making out any tax list, shall enter therein the names of all persons liable to pay a school tax, the amount of personal property to be taxed to each person, and a description of all taxable real estate in the district, distinguishing that owned by non-residents of the district, and he shall set opposite to the each description of taxable property, the valuation of the same, and the amount of tax charged upon such property, and to each person respectively, or tract of land owned by non-residents; and such description and valuation of taxable property, shall be ascertained as far as possible from the last assessment roll of the county.

**When district board to estimate and apportion taxes.**

Sec. 55. Whenever any real estate in any school district shall not have been separately valued in the assessment roll of the county, and the value of such real estate cannot be definitely ascertained from such assessment roll, the district board of such district shall estimate the value of the same, and apportion the taxes thereon.

**What warrant annexed to tax list to contain.**

Sec. 56. The warrant annexed to any tax list shall be under the hand of the clerk of the district, and shall command the treasurer of such district to collect from each of the persons and corporations named, in said tax list, and of the owners of the real estate described therein, the several sums set opposite the persons and corporations so named, and to the several tracts of land owned by non-residents, within forty days from the date thereof, and within twenty days from the date of such warrants, to personally demand such tax of the persons charged

therewith; and that if any tax shall not be paid within thirty days thereafter, to collect the same by distress and sale of property in the same manner as county taxes, and the said treasurer shall execute the said warrant and return the same to the clerk at the expiration of the time limited therein, for the collection of such tax list.

Sec. 57. The warrant issued by the clerk of any school district, for the collection of any district tax authorized by any of the provisions of this act, may be executed any where within the limits of the county, and such warrants shall have the like force and effect as a warrant issued for the collection of county taxes; and the treasurer of the district, to whom any such warrant may be delivered for collection of a tax list, shall possess the like powers in the execution of the same as are provided by law for the collection of county taxes.

Force and effect of warrant.

Powers of treasurer and warrant.

Sec. 58. Whenever any error may be discovered in any district tax list, the district board may order any money which may have been improperly collected on such tax list, to be refunded, and may authorize the clerk of the district to amend and correct such error in said tax list.

District board may correct error in tax list.

Sec. 59. Whenever any district tax, lawfully assessed, shall be paid by any person on account of any real estate whereof he is only a tenant, such tenant may charge and collect of the owner of such estate the amount of tax so paid by him, unless some agreement to the contrary shall have been made by the tenant.

When tenant pays tax on real estate.

Sec. 60. It shall be the duty of the county clerk of each county, as soon as the annual assessment roll shall be completed in each year, to make out for each district in such county, a description of all taxable property therein, with the valuations affixed thereto, as the same shall appear in the last assessment roll, which shall be certified by him and delivered to the clerk of each school district in the county.

Duty of county clerk when assessment roll shall have been completed.

#### GRADED SCHOOLS.

Sec. 61. Whenever the inhabitants of two or more school districts may wish to unite for the purpose of establishing a graded school, in which instruction shall be given in the higher branches of education, the clerks of the several districts shall,

How graded schools formed.

upon written application of five voters of their respective districts, call a meeting of the voters of such district at some convenient place, by posting up notices thereof in like manner as provided for calling district meetings, and if a majority of the voters, [of each] of the two or more districts shall vote to unite for the purpose herein stated, they shall at that meeting or at an adjourned meeting, elect a board of directors, consisting of a director, clerk and treasurer.

Powers of board of directors of graded schools.

Sec. 62. The board of directors, provided in the preceding section, shall, in all matters relating to the graded schools, possess all the powers and discharge all the like duties of the district board as prescribed in this act.

Union district entitled to equitable share of school funds.

Sec. 63. The union district thus formed, shall be entitled to an equitable share of the school funds, to be drawn from the treasurer of each district so uniting, in proportion to the number of children attending the said graded school for each district.

Union district may levy taxes for what purposes.

Sec. 64. The said union district may levy taxes for the purpose of purchasing a building, or furnishing proper building for the accommodation of the school, or for the purpose of defraying necessary expenses and paying teachers, but shall be governed, in all respects, by the law herein provided for levying and collecting district taxes.

Report of clerk to treasurer.

Sec. 65. The clerk of the union district shall report in writing to the treasurer of each school district uniting in the union district, the number of scholars attending the graded school from his district, their sex, and the branches studied, and the said district treasurer shall apportion the amount of school money due the union district, and pay the same over to the treasurer of the union district on order of the clerk thereof.

Report to superintendent. Other duties.

Sec. 66. The clerk of the union district shall make a report to the county superintendent of schools and discharge all the duties of clerk, in like manner as the clerk of the district.

Duties of treasurer.

Sec. 67. The treasurer of the union district shall perform all duties of treasurer, and give the bond as prescribed in this act, in like manner as the district treasurer.

Public schools in city town or village.

Sec. 68. The public schools of any city, town, or village, which may be regulated by special law set forth in the charter

of such city, town or village, shall be entitled to receive their proportion of the public fund: *Provided*, The clerk of the board of education in such city, town or village, shall make due report within the time and manner prescribed in this act, to the superintendent of schools.

Sec. 69. Any single district shall possess power to establish graded schools, subject to the provisions of this act, in like manner as two or more districts united.

Single districts may establish graded schools.

Sec. 70. The county treasurer shall collect all moneys due the county for school purposes, from fines, forfeitures or proceeds from the sale of estrays, and all moneys paid by persons as equivalent for exemption from military duty, and he shall pay the same to the said district treasurer, as prescribed in this act. He shall also collect the delinquent taxes on real estate in any district, in the [same] manner as county taxes are collected, whenever such delinquent tax list shall have been lawfully reported and returned to him, and he shall pay the same over to the treasurer of said district to which delinquent taxes are due, and if any county treasurer shall refuse to deliver over to the order of the county superintendent any money in his possession, or shall use, or permit to be used for any other purpose than is specified in this act, any school money in his possession, he shall on conviction thereof, be adjudged guilty of a misdemeanor, and punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year.

Duty of county treasurer.

Delinquent taxes.

Penalty against treasurer in certain cases.

#### MISCELLANEOUS.

Sec. 71. It shall be the duty of the teacher of every district school or graded school, to make out and file with the district clerk at the expiration of each term of the school, a full report of the whole number of scholars admitted to the school during such term, distinguishing between male and female, the text books used, the branches taught, and the number of pupils engaged in the study of each of said branches. Any teacher who shall neglect or refuse to comply with the requirements of this section, shall forfeit his or her wages for teaching such school, at the discretion of the district board.

Duties of teachers at expiration of term of school.

Penalty for neglect or refusal.

Penalty against clerk in cer all cases.

Sec. 72. Every clerk of a district board, who shall willfully sign a false report to the county superintendent of his county, shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months.

Penalty against treasurer.

Sec. 73. Every school district clerk or treasurer who shall neglect or refuse to deliver to their successor in office, all records and books belonging severally to their offices, shall be subject to a fine not exceeding fifty dollars.

When final judgment obtained against school district.

Sec. 74. When any final judgment shall be obtained against any school district, the district board shall levy a tax on the taxable property in the district, for the payment thereof; such tax shall be collected as other school district taxes, but no execution shall issue on judgment against a school district.

How paid.

Jurisdiction of justices of the peace under this act.

Sec. 75. Justices of the peace shall have jurisdiction in all cases in which a school district is a party interested, when the amount claimed by the plaintiff shall not exceed one hundred dollars, and the parties shall have the right of appeal as in other cases.

No compensation to be paid to school officer

Sec. 76. No school officer mentioned in this act shall receive any compensation for his services out of the territorial or school district fund.

Penalty against officer for not serving after elected.

Sec. 77. Any person duly elected at the annual district school meeting, to either of the district officers [offices] mentioned in this act, who shall omit or refuse to serve as such officer, without substantial cause, shall forfeit the sum of ten dollars for such omission or refusal; which amount may be recovered by the district in civil action before any justice of the peace in the county where such district is located; and shall be appropriated to the support of schools in the district by whom such action was prosecuted.

How fines and penalties collected.

Sec. 78. All fines and penalties not otherwise provided for in this act, shall be collected by an action in any court of competent jurisdiction.

When money donated for educational purposes.

Sec. 79. Whenever any sum of money shall be paid into the county treasury, by any educational aid society, or benevolent person or persons, for the cause of education, the county treasurer shall issue to such society, or person, a certificate of de-

posit, stating the amount of money received, from what source, and for what purpose the same is to be applied; whether to the payment of teachers' wages, the building or leasing of a school house, or the purchase of a site of land, and the particular school district or districts to which the said money is donated. And the said educational fund may thereafter be drawn from the county treasury, by order of the county superintendent of schools, and applied by the district board of the proper district, to the objects specified in the certificate of donation. And the county superintendent of public schools shall make a statement of the expenditures of said fund in his annual report.

## FORMS.

Sec 80. The form of notice of the first school district meeting may be substantially as follows:

Form of notice  
for first district  
school meeting.

To \_\_\_\_\_ a householder, in school district number \_\_\_\_:

The county commissioners have formed school district number \_\_\_\_\_, in the county of \_\_\_\_\_, of which the following is a description

\_\_\_\_\_, and you are hereby directed to post this notice in at least five public places in the said district, notifying the voters of said district to attend the first meeting thereof, which is appointed to be held at the house of \_\_\_\_\_, in said district, on the \_\_\_\_\_ day of \_\_\_\_\_, 186—, at \_\_\_\_\_ o'clock, \_\_\_\_.

This \_\_\_\_\_ day of \_\_\_\_\_, 186—.

\_\_\_\_\_,  
County Sup't Pub. Instruction.

Sec. 81. The form of notice for annual district meeting may be as follows:

Form of notice  
for annual district meeting.

Notice is hereby given to the voters of school district number \_\_\_\_\_, of \_\_\_\_\_ county, that the annual meeting of said district will be held at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 186—, at \_\_\_\_\_ o'clock.

This \_\_\_\_\_ day of \_\_\_\_\_, 186—.

\_\_\_\_\_,  
District Clerk.

*Form of order* **Sec. 82.** The form of order on district treasurer may be as follows:

To \_\_\_\_\_, treasurer school district number \_\_\_\_\_, county of \_\_\_\_\_.  
 Pay to the order of \_\_\_\_\_, the sum of \_\_\_\_\_ dollars out of my money in your hands, not otherwise appropriated, belonging to said district.

This \_\_\_\_\_ day of \_\_\_\_\_, 186—.

\_\_\_\_\_  
 District Clerk

\_\_\_\_\_  
 Director

*Form of bond.* **Sec. 83.** The form of bond of district treasurer may read as follows:

Know all men by these presents, that we, \_\_\_\_\_ treasurer of school district number \_\_\_\_\_, county of \_\_\_\_\_ and \_\_\_\_\_ his surety, are held and firmly bound unto the said school district, for the payment of which we bind ourselves severally and jointly, our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this \_\_\_\_\_ day of \_\_\_\_\_ A. D., 186—.

The condition of the above obligation is such, that if said \_\_\_\_\_, treasurer as aforesaid, shall faithfully discharge the duties of his office as treasurer of school district number \_\_\_\_\_, county \_\_\_\_\_, as prescribed by law, then this obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered in presence of

\_\_\_\_\_. [SEAL.]

\_\_\_\_\_. [SEAL.]

*Form of warrant for the collection of district tax.*

**Sec. 84.** The form of warrant for the collection of district tax may be as follows:

To \_\_\_\_\_, the treasurer of school district number \_\_\_\_\_, county of \_\_\_\_\_.

This is to authorize and require you to demand, within twenty days from the date of this warrant, of every person or corporation named in the annexed duplicate of school tax of said district, the sum wherewith such person or corporation stands charged; and if any such tax be not paid within thirty days from the date



of this warrant, you are required to proceed to collect the same as authorized by law, by distress and sale of property, and make due return according to law.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_ A. D., 186—.

\_\_\_\_\_  
District Clerk.

Sec. 85. Vouchers may be in the following form:

*Form of voucher*

Received \_\_\_\_\_, 186—, of \_\_\_\_\_, treasurer of school district number \_\_\_\_\_, county of \_\_\_\_\_, dollars for services rendered as teacher in the said district, for the term of \_\_\_\_\_ months.

\_\_\_\_\_  
Teacher.

Sec. 86. The form of contract between district and teacher may read as follows: *Form of contract.*

It is hereby agreed between school district number \_\_\_\_\_, county of \_\_\_\_\_, and \_\_\_\_\_, teacher, that the said \_\_\_\_\_ is to teach the common school of said district for the term of \_\_\_\_\_ months, for the sum of \_\_\_\_\_ dollars per \_\_\_\_\_, commencing on the \_\_\_\_\_ day of \_\_\_\_\_ 186—; and for such services properly rendered, the said school district is to pay \_\_\_\_\_ the amount that may be due, according to this contract, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 186—.

\_\_\_\_\_  
District Clerk.

This \_\_\_\_\_ day of \_\_\_\_\_, 186—.

\_\_\_\_\_  
Teacher.

Sec. 87. The form of annual report of district treasurer may be substantially as follows: *Form of annual report of district treasurer.*

I \_\_\_\_\_, treasur[er] of school district number \_\_\_\_\_, county of \_\_\_\_\_, submit the following report of all moneys received and disbursed by me since the last annual meeting:

|                                                       |          |
|-------------------------------------------------------|----------|
| Amount received from my predecessor,                  | \$ _____ |
| Amount received from county treasurer,                | \$ _____ |
| Amount raised by tax in the district [and] collected, | \$ _____ |
| Total amount received,                                | \$ _____ |
| Paid out, on order of district clerk (date of order), | \$ _____ |

On order of district [clerk.] \_\_\_\_\_, \$ \_\_\_\_\_  
 Balance on hand, \$ \_\_\_\_\_

This day of \_\_\_\_\_, A. D. 186—.

\_\_\_\_\_  
 Treasurer.

*Form of report  
 of district clerk  
 to county super-  
 intendent.*

Sec. 88. The form of report of district clerk to the county superintendent of public instruction may read as follows :

School district number \_\_\_\_\_, county of \_\_\_\_\_.

Number of children residing in the district over five and under the age of twenty-one years, \_\_\_\_\_

Males, \_\_\_\_\_

Females, \_\_\_\_\_

Total number, \_\_\_\_\_

Number of months a school has been taught, \_\_\_\_\_

months by Mr. \_\_\_\_\_,

months by Miss \_\_\_\_\_,

Wages paid Mr. \_\_\_\_\_, \$ \_\_\_\_\_

Amount of school money received from \_\_\_\_\_, \$ \_\_\_\_\_

county treasurer, \$ \_\_\_\_\_

Amount raised by district tax for teachers' wages, \$ \_\_\_\_\_

Amount raised by district tax for building school

house, \$ \_\_\_\_\_

Amount raised by district tax for furnishing school

house, \$ \_\_\_\_\_

Amount paid for teachers' wages, \$ \_\_\_\_\_

Amount expended for building school house, \$ \_\_\_\_\_

Amount expended for furnishing school house, \$ \_\_\_\_\_

This day of \_\_\_\_\_, 186 .

\_\_\_\_\_  
 District Clerk.

*Form of teacher's certificate*

To which may be added a copy of teachers' report, giving the names, age and total number of male and female pupils, number of days taught, the kind of text books used, the number of scholars in each branch of study, and the greatest number of miles to be traveled by scholars living on the borders of the district.

Sec. 89. A school teachers' certificate may be in the following form :

Dakota Territory, }  
 county. }

[A. D. 186 .]

This is to certify that \_\_\_\_\_ has been examined and found competent to give instructions in orthography, writing, arithmetic, English grammar, geography, and \_\_\_\_\_, and having exhibited satisfactory testimonials of good moral character, is authorized to teach these branches in any common school within this county.

\_\_\_\_\_  
 Superintendent of public schools of \_\_\_\_\_ county.

Sec. 90. Form of deed of school property may be as follows: Form of deed of school property.

This indenture, made the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and sixty \_\_\_\_\_, between \_\_\_\_\_, and \_\_\_\_\_, his wife of the county of \_\_\_\_\_, Dakota Territory, parties of the first part, [and \_\_\_\_\_ of district board of district number \_\_\_\_\_ county and Territory aforesaid [parties of the second part] witnesseth, That the said parties of the first part] in consideration of \_\_\_\_\_ dollars to them duly paid before the delivery hereof, have bargained and sold and by these presents do grant and convey to the said parties of the second part, their successors in office, and assigns forever (here describe the property,) with the appurtenances and all the estate, title, and interest of the said parties of the first part, therein. And the said parties of the first part do hereby covenant and agree with the said parties of the second part, that at the time of the delivery hereof, the said parties of the first part were the lawful owners of the premises above granted, and seized thereof, in fee simple absolute and they will warrant and defend the above granted premises, in the peaceful possession of the said parties of the second part, and their successors and assigns forever.

[SEAL.]

Scaled and delivered in presence of

[SEAL.]

The Territory of Dakota, }  
 county. }

Form of acknowledgment to deed.

Personally appeared before me a \_\_\_\_\_, within and for the county above named, \_\_\_\_\_ and \_\_\_\_\_ his wife, to me known to be the persons whose names are affixed to the above deeds as

grantors, and acknowledged the same to be their voluntary act and deed; and the said        being at the same time, by me made acquainted with the contents of the above deed, apart from her husband, acknowledged that she executed the same voluntarily, and that she is still satisfied therewith. Witness my hand and seal this        day of        , A. D. 186    .

Acts repealed.

Sec. 91. All acts and parts of acts, prior to chapter 31, of the session laws of 1865 and 1866, relative to common schools, are hereby repealed.

When act to take effect.

This act shall take effect and be in force from and after the first day of January, A. D. 1867.

Approved, January 11th, 1867.

## AGRICULTURAL SOCIETIES.

### CHAPTER XI.

#### AN ACT TO ORGANIZE COUNTY AGRICULTURAL SOCIETIES.

Section 1. Who may organize societies.

2. Style of society.

3. Who may become members. Officers. Their terms.

4. Powers of society.

5. May appoint other officers, and make by-laws.

6. Territorial societies.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Who may organize societies.

Section 1. Any number of persons, not less than ten, being inhabitants of any organized county in this Territory, may form themselves into an association for the promotion of the interests of agriculture, the raising of stock, and other kindred arts; which association shall be known as the \_\_\_\_\_.

Sec. 2. Any citizen of the county may become a member of said association by paying annually a membership fee of two dollars.

Who may become member.

Sec. 3. Whenever ten or more persons shall be associated together for the purposes mentioned in section 1st of this act, they shall proceed to elect a President, Vice-President, Secretary and Treasurer, who shall hold their offices for the term of one year, or until others are elected to act in their place.

Officers, their terms.

Sec. 4. For the purposes aforesaid, the Society shall be and the same is hereby made capable in law, to have, purchase and possess to them and their successors real and personal estate, necessary to give effect to the purposes of this Society; and the same to sell, grant and dispose of, and to sue and be sued in all courts of this Territory: *Provided*, That the real and personal estate which the Society shall be authorized to hold shall not exceed in value the sum of one thousand dollars.

Powers of society.

Sec. 5. The Society shall have power to appoint such officers as they may deem expedient, and to make such by-laws and regulations as shall be deemed necessary for the well being and government of the Society.

May appoint other officers and make by-laws.

Sec. 6. And be it further enacted, That when two or more counties shall join together for the purposes above mentioned, they shall have power to organize a Territorial Agricultural Society, and to make such rules and regulations as shall be deemed necessary for its good government and efficiency.

Territorial society.

Approved January 4th, 1867.

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## ATTORNEYS.

## CHAPTER XII.

AN ACT REGULATING THE ADMISSION OF ATTORNEYS TO  
THE SUPREME COURT OF THIS TERRITORY.

Section 1. No person to be admitted to supreme court unless he has been previously admitted in some district court.—  
Proviso.

2. Acts repealed.
3. When to take effect.

*Be it enacted by the Legislative Assembly of the Territory  
of Dakota:*

No person to be  
admitted to su-  
preme court in-  
less he has been  
previously  
admitted in  
some district  
court.  
Proviso.

Section 1. No person shall be admitted or licensed to practice in the supreme court of this Territory, unless such person shall have been first admitted or licensed to practice in some one of the district courts of this Territory; *Provided*, That any person may be admitted to practice in said supreme court on motion and production of a certificate bearing the seal of the supreme court of any other Territory or State, and certifying that such person was duly admitted to practice in such supreme court of said Territory or State.

Act repealed.

Sec. 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

When to take  
effect

Sec. 3. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, January 7th, 1867.

# COUNTY SEATS.

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## CHAPTER XIII..

### AN ACT TO PROVIDE FOR THE REMOVAL OF COUNTY SEATS BY VOTE OF THE PEOPLE.

- Section 1. Proceedings to move County Seat.
2. Ballot. Number of votes required. When move county seat.
  3. Shall remain two years.
  4. Votes how canvassed.
  5. No County Seat shall be removed in any other manner than as herein provided.
  6. When to take effect.

*Be it enacted by the Legislative Assembly of the Territory  
of Dakota:*

Section 1. That when any number of the legal voters of any county in this Territory equal to one-half the number of legal voters as shown by the census of the last preceding assessment in such county, shall, at least thirty days previous to the next ensuing election, petition the county commissioners of such county to be allowed to vote on the removal or location of the county seat of such county, the said county commissioners shall cause to be inserted in the notices for the next annual election an article requiring the voters of such county to vote on the removal or location of the county seat of such county at the next ensuing election.

Sec. 2. The voters of any county so notified shall vote at the next election on the location or removal of their county seat, by ballot, written or printed, as follows:

For county seat at ———, (filling the blank with the name of the place voted for.) And if the vote be for the removal of a county seat which has been previously located by direct act

**Number of votes required.** of the legislature, or by vote of the people, it shall require a majority vote to remove any county seat thus located; but if the vote be for the location of a county seat in any new county which has been but temporarily designated by special act, a simple plurality vote shall be deemed sufficient for the removal or location of the county seat of such new county at the first election therein; but, thereafter the county seat of such county shall not be removed except by a majority vote of the people equal to one sixth of the total vote cast at the last annual election in such county.

**When new county seat.**

**Shall remain two years**

Sec. 3. That in any county of this Territory where the county seat shall have been located by a majority vote of the people, as provided in section 2, the place at which the county seat may have been thus located, or to which the same may have been thus removed, shall be and remain the county seat of such county for at least two years after the taking of such vote, and no new election shall be had on the re-location of the county seat until the expiration of the said two years.

**Votes how canvassed.**

Sec. 4 The votes for and against the removal or location of county seat, shall be returned and canvassed in the same manner as the votes for county officers.

**No county seat shall be removed in any other manner than as herein provided.**

Sec. 5. No county seat, in any county of this Territory shall be removed in any other manner than that herein prescribed, except by the amendment or repeal of this act.

**When act to take effect.**

Sec. 6. This act shall take effect and be in force from and after its passage and approval.

Approved January 11, 1867.



## COUNTIES.

## CHAPTER XIV.

## AN ACT TO CREATE AND ESTABLISH THE COUNTY OF LARAMIE.

- Section 1.** Boundaries of Laramie county. Names of officers appointed by this act.
2. Notaries Public may be appointed for said county.
3. County seat at Fort Sanders. County entitled to one Representative.
4. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

● **Section 1.** That all that portion of the Territory of Dakota west of the one hundred and fourth meridian west, be and the same is hereby erected into a county by the name of Laramie and the following officers are hereby appointed for said county, to act until the next ensuing general election : county commissioners, William L. Kuykendall, Philip Mandell, William L. Hopkins ; sheriff, Robert Foot ; judge of probate, Geo. Wilson, jr. ; register of deeds, James C. Lehmer ; justice of the peace, Robert Tate ; constable, Frank Ernest ; coroner, B. J. Walters.

Boundaries of  
Laramie county.

Names of officers  
appointed by  
this act

**Sec. 2.** The governor may appoint as many Notaries Public as he may deem necessary for said county.

Notaries Public  
may be appointed  
for said  
county.

**Sec. 3.** The county seat of said county is hereby located at Fort Sanders, and said county shall be entitled to one Representative in the Legislative Assembly, until otherwise provided by the Legislative Assembly.

County seat at  
Fort Sanders.  
County entitled  
to one representa-  
tive.

**Sec. 4.** This act shall take effect and be in force from and after its passage.

When act to take  
eff. et.

Approved, January 9th, 1867.

## CHAPTER XV.

AN ACT TO ORGANIZE THE COUNTY OF PEMBINA, AND  
FOR OTHER PURPOSES.

## Section 1. Boundaries of the County of Pembina.

2. County seat to be at the town of Pembina. *Proviso.*
3. Governor to appoint three County Commissioners. Power conferred upon said Commissioners.
4. When to proclaim county duly organized.
5. County entitled to one representative.
6. Acts repealed.
7. When to take effect.

*Be it enacted by the Legislative Assembly of the Territory of  
Dakota.*

Boundaries of  
the county of  
Pembina.

Section 1. That all that district of country embraced within the following described boundaries, shall be, and is hereby declared to be the county of Pembina; to-wit;

Beginning at a point in the main channel of the Red river of the North, where Wild Rice river enters the same; thence up the main channel of the Red river of the North, to the mouth of the Sheyenne river; thence up the main channel of the Sheyenne river to Poplar Grove; thence in a direct line to the Place of stumps, otherwise called Lake Chicot; Thence in a direct line to the head of Salt river; thence in a direct line due north to a point where such line would intersect the international boundary line between the United States and Great Britain; thence eastwardly to a point in the middle of the Red River of the North where said boundary line intersects the same; thence up the Red River of the North to the place of beginning; the same being the district of country ceded to the United States by the Red Lake and Pembina bands of Chippewa Indians, April 12th, 1864, and confirmed May 5th, 1864.

County seat to  
be at the town of  
Pembina.  
*Proviso.*

Sec. 2. The county seat of Pembina county shall be and is hereby located at the town of Pembina; *Provided*, such location may be changed at the annual election to be held on the second Tuesday of October next ensuing, by a vote of the duly qualified electors residing in the same.

Sec. 3. The Governor shall appoint three persons, being residents and legal voters of said county, commissioners, with full power and authority to do and perform all acts and duties devolving upon the board of county commissioners of any organized county of this Territory. The said board of county commissioners shall have power to appoint all other officers that may be required to complete and perfect the organization of said county.

Governor to appoint three county commissioners. Power conferred upon said commissioners.

Sec. 4. It shall be the duty of said board of county commissioners to satisfy themselves that there are twenty legal and duly qualified voters in said county; and upon such fact ascertained, shall proclaim the same and declare the said county duly organized.

When to proclaim county duly organized.

Sec. 5. The county of Pembina shall be entitled to one representative in the legislative assembly of this Territory, who shall be elected at the annual election to be held on the second Tuesday of October, A. D., 1867.

County entitled to one representative.

Sec. 6. All acts or parts of acts which conflict with the provisions of this act, be and the same are hereby repealed.

Acts repealed.

Sec. 7. This act shall take effect from and after its passage and approval.

When to take effect.

Approved, January 9th, 1867.

## DIVORCE AND ALIMONY.

### CHAPTER XVI.

#### AN ACT CONCERNING DIVORCE AND ALIMONY.

Section 1. Causes for which divorces may be granted.

2. May also grant divorce where either party has procured a divorce in any other Territory or State.

3. Manner of commencing actions, and the proceedings under this act.
4. When divorce may be granted. Legitimacy of children not to be effected. Order for care and maintenance of children.
5. Admissions of parties to be received.
6. Proof of cohabitation and reputation of marriage to be admitted.
7. Rights of wife where divorce is granted by reason of aggressions of husband. When granted by reason of aggression of wife.
8. Applications to be made in county where complainant resides, or where cause of action arose. Petitioner to be resident of Territory ninety days before filing petition.
9. Court may grant alimony during pendency of suit.
10. Wife may file petition for alimony alone. For what causes.
11. Proceedings for alimony alone to be conducted same as for divorce. Care and disposition of children. Rights of wife in such case.
12. Residence of husband not to preclude wife from provisions of this act.
13. When change of venue to be allowed. Where cause may be removed to on change of venue.
14. When husband may be enjoined from disposing of or interfering with property. Proceedings for such injunction.
15. When witness to be examined in open court. When depositions to be taken. Notice of taking depositions how given.
16. Either party may appeal to supreme court on questions of law.
17. Acts declared null and void.
18. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Causes for which divorce may be granted.

Section 1. That the several district courts of this Territory shall have cognizance of granting divorces, for the following causes: .

First. Where either of the parties had a former wife or husband living, at the time of solemnizing the second marriage;

Second. Where either of the parties shall have been willfully absent from the other five years;

Third. Adultery;

Fourth. Impotency; also, where the wife at the time of marriage, was pregnant by another than her husband, and the husband shall be ignorant of such pregnancy;

Fifth. Extreme cruelty;

Sixth. Habitual drunkenness;

Seventh. Where either party has been or shall hereafter be sentenced to imprisonment and actually imprisoned in the penitentiary of this Territory or state prison of any state or territory of the United States or the District of Columbia, for any violation of the laws of the United States, or where either party has been or shall hereafter be sentenced to imprisonment and actually imprisoned in the penitentiary in this Territory, for any violation of the criminal laws of this Territory, or in the penitentiary or state prison of either of the United States, or any of the territories thereof, or the District of Columbia, for any crime or offence against the laws of either said states or territories or of the District of Columbia; *Provided*, Such crime or offence against the laws of such state, territory, or District of Columbia, be of the same character or grade as is or may be, by the laws of this Territory, punished by imprisonment in the penitentiary; *And, provided also*, That all applications for divorces under the ninth [seventh] clause of this section shall be made during the imprisonment of the adverse party.

Sec. 2. That in addition to the causes of divorce already declared in this act, the several district courts of this territory shall have power to grant a divorce in favor of a party applying for the same, whenever it shall be made to appear that the husband or wife of such party has obtained a decree of divorce in any of the courts of any other territory or state, by virtue of which the party who shall have obtained such decree shall have been released from the obligation of the marriage contract, while the same remains binding upon the other party.

May also grant divorce where either party has procured a divorce in any other territory or state.

Manner of commencing sections and the proceedings under this act.

Sec. 3. The manner of commencing an action for a divorce, the issuing and service of the summons, whether the service be made personally or by publication, and all the proceedings pertaining to such action for divorce, shall be the same as in other cases, and as is now or may hereafter be provided by the Code of Procedure of this Territory.

When divorce may be granted legitimacy of children not to be affected. Order for care and maintenance of children

Sec. 4. The party, by such summons, shall be required to appear and answer said petition; and, if the party complained of shall not appear, or, appearing, shall admit or deny the allegations in said petition, the court shall thereupon proceed to hear and determine the same; and if, upon hearing any or all of the charges in said petition, (to be confined to the causes enumerated in the first section of this act,) it shall, by disinterested testimony, be proved to the satisfaction of said court, the court may proceed to pronounce the marriage contract dissolved, and both of the parties released from the obligation of the same; that the dissolution of such marriage shall in no wise effect the legitimacy of the children thereof; and the court shall make such order for the disposition, care and maintenance of the children of such marriage, if any there be, as shall be just and reasonable.

Admission of parties to be received

Sec. 5. That, upon the hearing of the petitions for divorce, the court may admit proofs of the admission of the parties to be received in evidence, carefully excluding such as they shall find reason to believe have been obtained by connivance, fraud, coercion, or other improper means.

Proof of cohabitation and reputation of marriage to be admitted.

Sec. 6. That, in all cases where an application is made for divorce, under the provisions of this act, proof of cohabitation and reputation of the marriage of the parties shall be admitted, and, at the discretion of the court or jury trying the cause, may be received as sufficient evidence of such marriage, any law, usage or custom to the contrary notwithstanding.

Rights of wife where divorce is granted by reason of aggression of husband

Sec. 7. That where a divorce shall be granted by reason of the aggression of the husband, the wife shall be restored to all her lands, tenements and hereditaments, not previously disposed of, and to her maiden name, if she so desires, and shall be allowed such alimony out of her husband's real and personal property as the court shall think reasonable, having due regard

to the property which came to him by marriage, and the value of his real and personal estate, at the time of said divorce; which alimony may be allowed to her in real or personal property, or both, or by decreeing to her such sum of money, payable either in gross or installments, as the court may deem just and equitable; and, if the wife survive her husband, shall, also be entitled to her right of dower in the real estate of her husband, not allowed her as alimony, of which he was seized at any time during the coverture, and to which she had not relinquished her right of dower; but, if the divorce shall arise by reason of the aggression of the wife, she shall be barred of all right of dower in the lands of which her husband shall be seized at the time of the filing of the petition for divorce, or which he may thereafter acquire, whether there be issue not; and the court shall order to her restoration of the whole of her lands, tenements or hereditaments, not previously disposed of, and also, such share of her husband's real or personal property, or both, as to such court may appear just and reasonable.

When granted by reason of aggression of wife.

Sec. 8. That all applications for divorce or for alimony under the provisions of this act, shall be made in the county where the complainant bona fide resides at the time of making such application, or in the county where the cause of complaint arose or took place; and the court shall hear and determine the same, whether the marriage took place or the cause of divorce occurred within the territory or elsewhere; *Provided*, The petitioner shall be a resident of the territory at least ninety days before the filing of his or her petition in the clerk's office of said court.

Application to be made in county where complainant resides, or where cause of action arose.

Petitioner to be resident of territory ninety days before filing petition.

Sec. 9. The said court shall have power to grant alimony to the wife for her sustenance, during the pendency of a petition for divorce, filed for any of the causes aforesaid.

Court may grant alimony during pendency of suit.

Sec. 10. That a wife may file her petition, as aforesaid, in the district court, for alimony alone, without the prayer for the dissolution of the marriage contract, for the following causes, to wit:

Wife may file petition for alimony alone. For what causes.

First. Adultery;

Second. Gross neglect of duty;

Third. Abandonment of the wife without good cause;

Fourth. When there is a separation in consequence of ill-treatment on the part of a husband ;

Fifth. Habitual drunkenness ; and

Sixth. Confinement in the penitentiary of Dakota, or in the penitentiary or state prison of any of the United States, or either of the territories thereof, or of the District of Columbia, for any crime or offense of the same character or grade as is or may be, by the laws of this territory punished with imprisonment in the penitentiary, in which case the application shall be made while the husband is so confined.

Proceedings for alimony alone to be conducted same as for divorce.

Sec. 11. The proceedings on said petition for alimony alone shall, in all respects be conducted as in an application for divorce, under the provisions of this act ; and the said court shall, upon satisfactory proof of any or all the charges in said petition, make such order for the disposition, care and maintenance of the children of such marriage, if any there be, as shall be just and reasonable, and restore to the wife all her lands, tenements and hereditaments not previously disposed of, and shall give judgment in her favor for such alimony, out of her husband's real and personal property, as may be just and equitable, to be allowed to her in real or personal property, or both, or in moneys, payable either in gross or in installments ; and the court shall, also by their said judgment, vest in her the right and power to acquire, hold, and manage and dispose of property, money and choses in action, and to bring and maintain suits in her own behalf, free from the control or interference of her said husband ; or the same may be vested in trustees for her use or benefit.

Care and disposition of children.

Rights of wife in such case.

Residence of husband not to preclude wife from provisions of this act.

Sec. 12. That when the wife shall file her petition, under the provisions of this act, praying for a divorce from her husband, or for alimony alone, the residence of her husband shall not be so construed as to preclude her from provisions of this act.

When change of venue to be allowed.

Sec. 13. A change of venue shall be allowed, by any court in which any petition for divorce or alimony may be filed for the hearing and determination of the same, upon the petitioner making application therefor, and making an affidavit in his or her behalf that a fair and impartial hearing and determination



can not be had before the court in which the petition is filed ; and, in case of such change of venue the cause shall be removed to any county in any judicial district in the territory where court may by law be held for hearing and determination.

Where cause may be removed to on change of venue.

Sec. 14. That any married woman may file her petition in any district court, setting forth that her husband from habitual intemperance or any other cause, is about to waste and squander the property, (legal or equitable) money, credits and choses in action to which she is entitled by her own right, or any part thereof, or is proceeding fraudulently to convert the same or any part thereof, to his own use, for the purpose of placing the same beyond her reach and depriving her of the benefit thereof; and the court, upon the hearing of the case, may enjoin the husband from disposing of or otherwise interfering with such property, moneys, credits, and choses in action, and may appoint a receiver to manage and control the same, for the benefit of the wife, and may, also, make such other order in the premises as they may deem just and proper; and, upon the filing of such petition, a provisional injunction may be allowed as in other cases; and such petition shall be filed in the county where said petitioner resides, and the husband of said petitioner shall be made a party defendant to said petition, in the same manner as is provided for by the second section of this act, in the case of a petition for divorce.

When husband may be enjoined from disposing of or interfering with property.

Proceedings for such injunction.

Sec. 15. In all applications for divorce or alimony alone, and in cases where the petition is filed under the eleventh section of this act, where the witness shall reside in the county in which the application is made or the petitions filed, they shall be examined in open court; but, if they shall reside without the county or are unable to attend court, their depositions may be taken as in other cases; but where the adverse party shall not reside within the county, where the application or petition is pending, or in an adjoining county, or shall not have an attorney residing in the county where such application or petition is pending, or in an adjoining county, the usual notice of the time and place of taking such deposition shall not be required; but in such cases, notice of the time and place of taking such depositions shall be given by publication in some newspaper

When witnesses to be examined in open court.

When depositions to be taken.

Notice of taking  
depositions to  
how given.

Either party  
may appeal to  
supreme court  
on questions of  
law.

As's declared  
null and void.

When act to  
take effect.

printed within the territory, for three consecutive weeks before the time of taking such depositions, and a copy of such notice shall, at or before the first publication thereof be deposited in the post office, properly directed to the party defendant, at his or her place of residence, when such residence is known to the petitioner, or can, with reasonable diligence, be ascertained by him or her.

Sec. 16. In actions for divorce, under the provisions of this act, appeals shall be allowed on questions of law, from the district to the supreme court, as in other cases, and the manner of taking such appeal shall be as provided by law.

Sec. 17. That all acts or parts of acts, which in any way conflict with the provisions of this act are hereby declared null and void.

Sec. 18. This act shall take effect and be in force from and after its passage.

Approved, January 10th, 1867.

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## DEBTS.

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### CHAPTER XVII.

#### AN ACT LIMITING THE TIME FOR COLLECTION OF DEBTS.

Section 1. What debts forever barred.

2. Accounts barred after two years. Promissory notes, bills of exchange &c., barred after six years.

3. When parties have absented themselves from the Territory.

4. Acts repealed.

5. When to take effect.

*Be it enacted by the Legislative Assembly of the Territory of  
Dakota:*

Section 1. That all debts which may have been heretofore contracted by parties who are now citizens of this Territory, or may hereafter become citizens of this Territory, which debts shall not have had judgment rendered in the courts of this Territory, upon them, shall, under the specifications of section 2, be forever barred and judgment shall not be rendered in any court in this Territory against any party or parties owing the same.

*What debts heretofore barred*

Sec. 2. All accounts of whatever description, that have not been settled by note, bill of exchange, acceptance or other method of settling accounts, shall be forever barred after two years. All promissory notes, bills of exchange, acceptances, official bonds, endorsements on any description of papers and all other evidences of debt where action has not [been] commenced on them in the proper courts, shall be forever barred after (6) six years.

*Accounts barred after two years.*

*Promissory notes bills of exchange &c., barred after six years.*

Sec. 3. That sections 1 and 2, shall not be construed to bar accounts or other evidences of debt contracted by parties who shall have absented themselves from the Territory, by reason of which service from the courts could not be obtained upon them or their property, or both, but such time they are absent from the Territory shall not be estimated in the time of limitation.

*When parties have absented themselves from the territory.*

Sec. 4. All acts or parts of acts conflicting with the provisions of this act, are hereby repealed.

*Acts repealed.*

Sec. 5. This act shall take effect and be in force from and after its passage.

*When act to take effect.*

Approved, January 6th, 1867.

## FEES.

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### CHAPTER XVIII.

#### AN ACT IN RELATION TO THE FEES OF REGISTER OF DEEDS.

Section 1. Twelve and a half cents per folio allowed to register of deeds in certain cases.

2. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Twelve and a half cents per folio allowed to register of deeds in certain cases.

Section 1. That for all official notices, abstracts, certificates or other papers, required by law to be issued by the register of deeds the fees for which are not fixed by law, the fee for such service shall be twelve and one half cents per folio.

When act to take effect.

Sec. 2. This act shall take effect from and after its passage and approval.

Approved, January 11th, 1867.

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## LAWS REPEALED.

### FERRY CHARTER.

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### CHAPTER XIX.

[AN ACT TO REPEAL CHAPTER TWO OF THE SPECIAL AND PRIVATE LAWS OF 1865-6.]

Section 1. Chapter two, special laws of 1865-6 repealed.

2. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Section 1. That chapter two of the special and private laws of 1865-6, granting to Barney McGraw a ferry charter across the Missouri river, be and is hereby repealed. Chapter two. Special laws of 1865-6 repealed.

Sec. 2. This act shall take effect and be in force from and after its passage and approval. When act to take effect.

Approved, January 4th, 1867.

## RELATING TO GUARDIANS.

### CHAPTER XX.

AN ACT TO REPEAL CERTAIN SECTIONS OF CHAPTER EIGHTEEN (18) OF THE SESSION LAWS OF 1864-5, APPROVED JANUARY 2nd, 1865, AND FOR OTHER PURPOSES.

Section 1. Certain sections of chapter 18, session laws of 1864-5 repealed.

2. How appointments of guardians of children of mixed blood made. Proviso.

3. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Section 1. That section one hundred and twelve (112), one hundred and thirty-four (134), one hundred and thirty-five (135), and one hundred and thirty-six (136), of chapter eighteen (18) of the session laws of 1864-5, approved, January 2nd, 1865, be and the same are hereby repealed. Certain sections of chapter 18, session laws of 1864-5 repealed.

How appointments of guardians of children of mixed blood made.

Provide,

When act to take effect.

Sec. 2. Appointments of guardians of persons and property of minor children of mixed blood shall be made under the same provisions that govern appointments in cases of persons of white blood; *Provided*, That no Indian woman can be appointed guardian for her own or other children.

Sec. 3. This act shall take effect and be in force from and after its passage and approval.

Approved, January 11th, 1867.

## RAILROAD CHARTER.

### CHAPTER XXI.

[AN ACT TO REPEAL CHAPTER 67 OF THE SESSION LAWS OF 1863-64 ]

Section 1. Chapter 67 session laws of 1863-4 repealed.

2. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

Chapter 67, session laws of 1863-4 repealed.

Section 1. That chapter 67 of the session laws of 1863-4, entitled "An act to incorporate the Minnesota and Dakota railroad company," be and the same is hereby repealed.

When act to take effect.

Sec. 2. This act shall be in force from and after its passage and approval.

Approved, January 11th, 1867.

## TOWNSHIPS.

## CHAPTER XXII.

## AN ACT TO ORGANIZE A SYSTEM OF TOWNSHIP GOVERNMENT IN THE COUNTY OF UNION.

- Section 1.** Union county divided into five "commissioners townships. Boundaries of Big Sioux township. Boundaries of Jefferson township. Boundaries of Center-ville township. Boundaries of Brule township. Boundaries of Sioux valley township.
2. One county commissioner to be elected in each township at next annual election. Term of office. Other officers elected at same time. Their terms of office.
  3. Duties of trustees. Trustees to take oath.
  4. Duties of township clerk. Trustees to appoint assistant clerk of elections. Township clerk to take oath, and give bond.
  5. When board of trustees of township to meet. Their duties. Taxes.
  6. Officers appointed by this act. Officers to be elected.
  7. Board of commissioners to determine by lot the duration of their offices.
  8. What township officers to take oath and give bond.
  9. Who entitled to vote for township officers.
  10. How provisions of this act construed. Proviso.
  11. This act not to apply to any other county than Union.
  12. Acts repealed.
  13. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

**Section 1.** The county of Union shall be divided into five districts known as "commissioners townships," bounded and described as follows:

Union county divided into five "commissioners townships."

**Boundaries of Big Sioux township.**

All that portion of the county south of the north line of township No. 89 N, lying between the Big Sioux and Missouri rivers, shall be known as the Big Sioux township and shall be entitled to one county commissioner.

**Boundaries of Jefferson township.**

All that portion of the county north of the south line of township No. 90 N, and south of the north line of the same township, lying between the Big Sioux and Missouri rivers shall be known as Jefferson township, and shall be entitled to one county commissioner.

**Boundaries of Centerville township.**

All that portion of the county in range 49 and 50 west, township 91 N, lying between the Big Sioux and Missouri rivers shall be known as Centerville township and shall be entitled to one county commissioner.

**Boundaries of Brule township.**

All that portion of the county in range 49 and 50 west, township 92 N, lying between the Big Sioux and Missouri rivers shall be known as the Brule township, and shall be entitled to one county commissioner.

**Boundaries of Sioux Valley township.**

All that portion of the county north of the south line of township 93 N, shall be known as the Sioux valley township and shall be entitled to one county commissioner.

**One county commissioner to be elected in each township at next annual election. Term of office.**

Sec. 2. At the next annual election in said county there shall be elected one county commissioner in each civil township, by the qualified electors thereof, who shall hold his office for the term of two years, or until his successor is elected and qualified; and the said commissioners when so elected shall constitute the board of county commissioners, and when qualified, shall supersede the present incumbents in office, and shall proceed to the transaction of business as prescribed by law.

**Other officers elected at same time.**

There shall also be elected at said general election, in each township, three trustees, one township clerk, one assessor, one road supervisor and two constables who shall hold their offices for one year, and until their successors are elected and qualified; there shall also be elected at said election, two justices of the peace, who shall hold their offices for two years and until their successors are elected and qualified.

**Their terms of office.**

**Duties of trustees.**

Sec. 3. The trustees shall judge the election in their respective townships; shall order the place of holding the same, and shall be fence viewers; shall audit the accounts of the road supervisor and when so audited shall issue an order to the



township clerk for the amount due, and shall exercise a general supervision over the affairs of the township. Each trustee before entering upon the duties of his office shall take and subscribe an oath to support the Constitution of the United States and the Organic Act of Dakota, and faithfully perform the duties of his office.

Trustees to take  
oath.

Sec. 4. The township clerk shall keep a full and complete record of all affairs of the township; he shall be clerk of the board of trustees and shall keep in a suitable book to be furnished by the board of county commissioners, all the proceedings of the board of trustees and shall furnish the assessors of their townships with suitable assessment rolls; he shall, upon the order of the board of trustees, draw all moneys from the county treasury belonging to the township, and keep the same subject to the order of the trustees: and shall make an annual report to the board of county commissioners, on the first Monday of January, of all moneys received as said clerk during the year, from the county treasury, and from the township, and the disposition made thereof, he shall also issue and post notices of elections ten days previous to holding the same, and shall also act as clerk of elections in his township, and the trustees shall select some suitable person to act as assistant clerk at such election, and in case of the disability of the township clerk to attend at any election the judges shall select two persons to act as clerks of said election; and the canvass and return of all elections in the respective townships shall be made as provided by law. The township clerk shall, before entering upon the duties of his office, take and subscribe an oath, to support the Constitution of the United States and the Organic Act of Dakota, and faithfully discharge the duties of said clerk to the best of his ability; and shall also be required to give bond to the county, in the penal sum of five hundred dollars, with sufficient sureties, to be approved by the trustees of his township, and deposited with the clerk of the board of county commissioners.

Duties of township  
clerk.

Trustees to ap-  
point assistant  
clerk of election.

Township clerk  
to take oath  
and give bond.

Sec. 5. The board of trustees in each township shall meet on the first Tuesday in April, in each year, at the residence of one of their number, or at some school house in the township,

When board of  
trustees of  
township to  
meet.

**Their duties.  
Taxes.**

and at such other time as the business of the township may require, not to exceed six days in any one year, and at the said annual meeting, in April, they shall levy a tax of not less than one mill nor more than three mills on the dollar, of the taxable property in the township, as shown by the last annual assessment, for the purpose of defraying the current expenses of the township; which tax shall become due, and shall be paid to the township clerk, on or before the first day of January, in each year, and all taxes then unpaid shall draw interest at the rate of one per cent. a month until paid; and in the assessment of all other taxes the township assessor shall proceed in all respects as is provided by law for the assessment of county and territorial taxes.

**Officers appointed  
by this act.**

Sec. 6. That for the purpose of carrying this act into practical effect until next annual election, the following named officers be, and the same are hereby appointed, who shall serve until their successors are elected and qualified, to-wit: In the Sioux valley township, Harrison Miller shall be county commissioner; in the Brule township, Caleb Cummings shall be county commissioner, who shall serve with the present county commissioners until their successors are elected and qualified; and at the next annual election there shall be elected in each township, one county commissioner, three trustees, one township clerk, one assessor, one road supervisor, two justices of the peace, and two constables, by the qualified electors thereof, which officers shall be electors of their respective townships.

**Office to be  
elected.**

**Board of commissioners to determine by lot duration of their office.**

Sec. 7. The said board of commissioners shall at their first regular meeting in each year, determine, by lot, the duration of their respective terms of office, to commence in the year 1867.

**What township officers to take oath and give bond.**

Sec. 8. All township officers provided for in this act, whose form and manner of qualification are not herein provided for, shall take such oath and give such bond as shall be required by the board of township trustees.

**Who entitled to vote for township officers.**

Sec. 9. All persons possessing the qualifications of electors for territorial and county officers who shall have resided within the township twenty days prior to any election, shall be entitled to vote at such election within their respective townships.

Sec. 10. The provisions of this act shall not be construed to interfere with the duties of any county officer as now defined by law: *Provided, however*, that the sheriff shall be no longer county assessor, but the duties of the same shall devolve upon the township assessor of their respective townships.

How provisions  
of this act con-  
strued.  
 proviso.

Sec. 11. This act shall not be construed to apply to any other county in this territory, than the county of Union.

This act not to  
apply to any  
other county  
than Union.

Sec. 12. All provisions of acts in conflict with this act are hereby repealed, so far as they apply to the county of Union.

Acts repealed.

Sec. 13. This act shall take effect from and after its passage and approval.

When act to  
take effect.

Approved, January 9th, 1867.

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## TAXES.

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### CHAPTER XXIII.

[This law is published with the amendments made by the last session of the legislative assembly for the convenience of revenue officers, and at the request of several members of the legislature.]

#### AN ACT IN RELATION TO TERRITORIAL AND COUNTY REVENUE.

**Section 1.** Debts contracted prior to January 1865, not to be paid out of revenue under this act. Fifty dollars may be expended for blank books.

**2.** What taxes to be hereafter annually levied. Amount for Territorial purpose. For county revenue. For repairing roads and bridges. Aggregate Territorial and county tax not to exceed three-fourths of one per cent.

3. What property exempt from taxation.
4. Property subject to taxation.
5. Owner or manager to assist in listing property. Property how listed.
6. How commission merchants to list property.
7. How agents or attorney to list. Property of person deceased.
8. Person doing business in one or more counties. Member of partnership liable for taxes due from firm.
9. How insurance companies assessed.
10. Property to be listed and taxed in name of owner. Real property.
11. Bank notes and stock of corporations, how assessed.—Credits and annuities.
12. What may be deducted. Obligation to insurance company, and unpaid subscriptions not to be deducted.
13. How certain property to be listed.
14. Sheriff ex officio to be assessor and collector. Compensation.
15. On first of January, County Commissioners to furnish assessors with books. What to be entered in books.
16. When assessor to enter upon the discharge of duties.—Duties of assessor.
17. Same. Penalty for refusing to make oath required by this act.
18. Assessor to administer oath to each person assessed.—When any one refuses to take oath.
19. Assessor to deliver assessment book to clerk of board, first Monday of April. May appoint deputies.
20. Penalty against assessor for neglecting to perform duties.
21. Board of county commissioners to equalize taxes. To hold special meeting on first Monday of May.
22. Person aggrieved may appear before board and have assessment corrected.
23. Clerk of board to transmit to Secretary of Territory an abstract of real property in county. When. What abstract to contain.
24. Who constitutes board of equalization. When to meet. How they shall equalize valuation of real property.

25. Duties of Territorial board and clerks of county commissioners.
26. Penalty against clerks for not complying with requirements of preceding section.
27. Duties of sheriff in Collecting taxes.
38. When parties neglect to pay taxes. Distress.
29. Proceeding of collector when he distrains. Sale of property. Surplus after sale to be returned to owner.
30. When unpaid taxes shall draw interest. Taxes on real property a perpetual lien.
31. Duty of collector after taxes have become delinquent. To give receipt to tax payer. Proviso.
32. Collector to make final settlement on first Monday of January. His duties then.
33. When county commissioners shall direct treasurer to refund to tax payer.
34. When lands to be sold for delinquent taxes.
35. How notice of sale to be given. What notice to state, what to be charged in addition to taxes and interest.
36. County treasurer to conduct sale.
37. Who considered purchaser. Homestead.
38. Treasurer to continue sale, how long.
39. Purchaser to pay what. Failure to do so.
40. Irregularity of notice not to affect legality of sale.
41. Certificate of publication where filed.
42. Penalty against county officers who shall purchase real property sold for taxes.
43. When treasurer to adjourn sale.
44. Treasurer to purchase a certificate. What certificate to contain.
45. Certificate assignable by endorsement.
46. When and how property sold under this act redeemable. Proviso.
47. Duty of treasurer on application of party to redeem.
48. When deed to be delivered to purchaser.
49. Compensation of treasurer on such sales.
50. Deed *prima facie* evidence of what. Proviso.
51. When land sold by error or unlawful act of treasurer.—  
vise.

52. What deemed sufficient evidence to prove sale of real property for taxes.
53. Action for recovery of real property voted for taxes to be brought within six years.
54. Each county responsible to Territory for what.
55. When county treasurer defaulter for Territorial revenue.
56. Penalty for loaning county funds.
57. When treasurer to make settlement with commissioners. Compensation allowed to treasurer.
58. Deputy treasurer on going out of office.
59. Penalty against officer for not complying with provisions of this act.
60. Acts repealed.
61. When act to take effect.
62. Time for collecting taxes in Clay county extended.
63. Attested copy of this act to be sent to Clay county.
64. When this act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Debts contracted prior to January 1865, not to be paid out revenue under this act.

Section 1. That no territorial or county warrant, issued for the payment of any debt contracted prior to the first day of January, 1865, shall be paid in whole or in part, out of the territorial or county revenue created under the provisions of this act; and a sufficient amount of the first territorial tax received under this act, shall be applied by the territorial treasurer to the purchase of suitable blank books for the territory, not to exceed fifty dollars in value.

Fifty dollars may be expended for blank books

What taxes to be hereafter annually levied.

Sec. 2. That the board of county commissioners of each county in this territory, shall annually, as hereinafter provided, levy the following taxes upon the assessed value of taxable property in the territory:

Amount for territorial purposes

1. For territorial purposes the tax shall be one mill on the dollar when no rate is fixed by the governor, auditor and treasurer, as hereinafter specified, and in no case shall a tax for territorial purposes exceed two mills on the dollar.

2. For county revenue, including the support of the poor, the

property tax shall not exceed four mills on the dollar, and a poll tax of one dollar for county school purposes ;

For county revenue.

3. For repairing roads and bridges under direction of the county commissioners, the tax shall not exceed one mill on the dollar ; and the aggregate tax for territorial and county purposes shall in no case exceed three fourths of one per cent. per annum.

For repairing roads and bridges.

Aggregate territorial and county tax not to exceed three-fourths of one per cent.

#### PROPERTY EXEMPT.

Sec. 3. The following described property is hereby exempt from taxation ;

What property exempt from taxation.

1. The property of the United States and that of this Territory ; the property of any county, township, incorporated town or school district, when devoted entirely to public use ; public grounds, by whomsoever devoted to the public, including all places for the burial of the dead ;

Same.

2. Fire engines and implements used for extinguishing fires, with the grounds used exclusively for the buildings of a fire company ;

Same.

3. All grounds and buildings of literary or scientific institutions, incorporated under the laws of this Territory ; also, the grounds and buildings of benevolent, agricultural and religious institutions, and societies devoted solely to the appropriate objects of these institutions ;

Same.

4. The books, papers and apparatus belonging to the above institutions, and used for the purpose above contemplated, and the like property of students in any such institutions ; moneys and credits belonging to said institutions, not exceeding in amount the sum prescribed in their charter ;

Same.

5. One dog and all other animals not specified in the next section, the wool shorn from twenty sheep belonging to the person giving the list. The provisions for any family, sufficient for the sustenance of the family for one year ; private libraries, not exceeding one hundred dollars in value ; family pictures, libraries of clergymen ; household furniture, not exceeding one hundred dollars in value ; the wearing apparel of every person ;

Same.

6. The polls of persons who, by reason of age or infirmity,

may, in the judgment of the assessor, be unable to contribute to the public revenue ;

Same.

7. The farming utensils of any person who makes his livelihood by farming, and the tools of any mechanic, not in either case to exceed one hundred dollars in value.

#### TAXABLE PROPERTY.

Property subject to taxation.

Sec. 4. All other property, real and personal, within this Territory, is subject to taxation in the manner herein directed. This section is intended to embrace lands and lots in towns, including lands bought from the United States, ferries, franchises and toll bridges, which for the purpose of this act, are considered real property—horses, cattle, mules, asses, sheep and swine and money, whether on deposit or in possession, and including bank bills, money or property, due from solvent debtors, on contract, or judgment, property situated in this Territory belonging to any bank or company, incorporated or otherwise, public stocks or loans, household furniture, including gold and silver plate, private libraries exceeding one hundred dollars in value, carriages, stages, hacks, wagons, farming utensils, machines, and machinery, and mechanic's tools, for their value over one hundred dollars, boats and vessels of every description, whenever registered or licensed, and whether navigating the waters of the Territory, or not, if owned wholly or in part by persons who are inhabitants of this Territory, annuities, but not pensions from the United States, nor salaries or payment expected for services to be rendered.

Owner or manager to assist in listing property.

Sec. 5. Every inhabitant of this Territory, of full age and sound mind, shall assist the assessor in listing all property subject to taxation in this Territory of which he is the owner or has the control or management, in the manner hereinafter described: The property of a ward is to be listed by his guardian ; of a minor by his father if living, if not, then by his mother if living, and if not, then by the person having the property in charge, if a married woman, by herself or husband ; if a beneficiary for whom property is held in trust, by the trustee ; and the personal property of a decedent, by the executor ; of a body corporate, company, society, or partnership by its principal accounting officer, agent, or partner. Property un-

Property how listed.



der mortgage or lease to be listed by and taxed to the mortgagor or lessor, unless it be listed by the mortgagee or lessee by special agreement.

Sec. 6. Commission merchants and all persons trading on commission and assignees authorized to sell, when the owner of the goods does not reside in the county, are for the purposes of taxation to be deemed the owners of the property in their possession and shall list the average monthly amount of capital in trade, since the last assessment.

How commission merchants to list property.

Sec. 7. Any person authorized as agent or attorney, to list property belonging to another, shall list it in the same county in which he would be required to if it were his own (except as herein otherwise directed;) but he shall list it separately from his own, giving the assessor the name of the person or estate to whom it belongs; but the individual property of a person deceased, belonging to his heirs, may be listed as belonging to heirs without enumerating them.

How agent or attorney to list.

Property of person deceased

Sec. 8. When a person is doing business in more than one county, the property and credits existing in any one of the counties, shall be listed and taxed in that county, and the credits not existing in or pertaining especially to the business in any one county, shall be listed and taxed in that where the principal place of business may be. Any individual of a partnership is liable for the taxes due from the firm.

Person doing business in one or more counties

Member of partnership liable for taxes due from firm.

Sec. 9. Insurance companies of every description, existing in other territories and states, and operating in this territory shall be taxed for county and territorial purposes, upon the amount of the premiums taken by them during the year previous to the listing in the county where the agent conducts that business, and the agent shall render the list and shall be personally liable for the tax; and if he refuses to render the list or to swear as herein required, the amount may be assessed according to the best knowledge and discretion of the assessor.

How insurance companies assessed.

Sec. 10. All real and personal property shall be listed, assessed, and taxed in the name of the owner thereof; but if the owner resides out of the county, it shall be listed by the agent or person having charge of the same. All real property shall be assessed according to its true cash value, having regard to

Property to be listed and taxed in name of owner

**Real property.** its quality, location, natural advantages and the general improvement in the vicinity.

**Bank notes and stocks of corporations how assessed. Credits and annuities,**

Sec. 11. Bank notes, and the stocks of corporations and companies shall be assessed at their cash value; credits shall be listed at such sum as the person listing them believes will be received or can be collected thereon, and annuities at the value which the person listing believes them to be worth in money.

**What may be deducted.**

Sec. 12. In making up the amount of money and credits which any person is required to list or have listed and assessed, he will be entitled to deduct from the gross amount all bona fide debts owing by him, but no acknowledgment of indebtedness not founded on actual consideration, and no such acknowledgment made for the purpose of being so deducted, shall be considered a debt within the intention of this section, and so much only of any liability of such person as security for another shall be deducted, as the person making the list believes he is equitable or legally bound to pay, and so much only as he believes he will be compelled to pay on account of the inability of the principal debtor, and if there are other sureties able to contribute, then so much only as he in whose name the list is made, will be bound to contribute; but no person will be entitled to any deduction on account of any obligation of any kind given to any insurance company for the premiums of insurance, nor on account of any unpaid subscription to any institution, society, corporation or company.

**Obligation to insurance company and unpaid subscriptions not be deducted.**

**How certain property listed.**

Sec. 13. Any person owning or having in his possession or under his control within this territory, with authority to sell the same, any personal property purchased either in or out of this territory, with a view of its being sold at an advanced price or profit, or which has been assigned to him from any place out of this territory, for the purpose of being sold within the same, shall be listed for taxation, and in estimating the value thereof, the merchant shall take the average monthly value of such property in his possession or under his control during the last year previous to the time of assessing, and if he has not been engaged in the business one year he shall then take the average monthly value for the number of months he shall have been engaged, and he shall be assessed for the average amount of capital in trade for one month, but if he be

commencing, he shall take the value of the property at the assessment.

Sec. 14. The sheriff of each county shall be ex-officio assessor and collector, and shall be allowed three dollars for each day he shall have been faithfully employed in discharging the duties of assessor, to be paid out of the county treasury.

Sheriff ex-officio to be assessor and collector. Compensation.

#### TIME AND MANNER OF ASSESSING.

Sec. 15. On or before the first Monday of January in each year, the board of county commissioners shall furnish each assessor with suitable books in duplicate, properly ruled and headed, in which to enter the following items:

On first of January county commissioners to furnish each assessor with books.

1. The name of the individual, corporation, company, society, partnership, or firm, to whom any property shall be taxable;

What to be entered in books.

2. His or their lands by township, range, section, or part of section and when such part is not a legal division or subdivision, some other description sufficient to identify it, and town lots, naming the town in which they are situated and their proper description by number and block, or otherwise, according to the system of numbering in the town;

Same.

3. Personal property as follows: Number of cattle, horses, mules, sheep, swine, carriages, capital employed in trade or manufacture, amount of money and credits, amount of other personal furniture, amount of stock in any corporation, amount of taxable farming utensils, mechanics tools, amount of all other personal property, and the number of polls, and a column for remarks. Whenever the owner of any real property is "unknown," this fact shall be noted in the proper column, and the property assessed as other real estate in the same county.

Same.

Sec. 16. Each assessor shall enter upon the discharge of the duties of his office, as soon as furnished with the assessment roll by the county commissioners, and shall, with the assistance of each person assessed, or who may be required by law to list property belonging to another, enter in the books furnished him for that purpose in the several items specified in the preceding section, entering the names of the persons assessed, in alphabetical order, so far as practicable by allotting to each letter its requisite number of pages in each of said books. He shall also enter in a separate column the number of adult per-

When assessor to enter upon discharge of duties. Duties of assessor.

sons male and female, and the number of children male and female, under the age of twenty-one years, in his county.

Same.

Penalty for refusing to make oath required by this act.

Sec. 17. It shall be the duty of the assessor to list each and every person in his county, and assess all the property, real and personal therein, and any person who shall refuse to assist in making out a list of his property or of any property of which he is required by law to assist in listing, or refuse to make the oath or affirmation required by this act, shall forfeit the sum of one hundred dollars, to be recovered in the name of the county for the use of the common schools therein; and when any person refuses to make out a list of his property which, by law, he is required to do, the assessor shall assess such person according to the best information he can get, as to the amount of taxable property which such person has.

Assessor to administer oath to each person assessed

When any one refuses to take oath.

Sec. 18. The assessor is hereby required to administer an oath or affirmation to each person so assessed, to the effect that he has given in a full and correct inventory of all taxable property owned by him, and all property held by him as agent, guardian, or otherwise, which he is required by law to list, to the best of his knowledge and belief; and in case any one refuses to take such oath, the assessor shall note the fact in the column of remarks opposite to such person's name, and should it afterwards appear that such person has not given a full list of his property or that under his control, any property so omitted shall be entered on the book at double the ordinary assessable value, and taxed accordingly.

Assessor to deliver assessment book to clerk of board, first Monday of April.

May appoint deputies.

Sec. 19. Each assessor shall, on or before the first Monday of April, of each year, return the assessment book, properly footed up, to the clerk of the board of county commissioners, and to assist him in the discharge of his duties, he may appoint one or more deputies, for whose acts he shall be officially responsible.

Penalty against assessor for neglecting to perform duties.

Sec. 20. If any assessor shall fail or neglect to perform any of the duties required of him by this act at the time and in the manner specified, he shall be liable to a fine not less than twenty nor more than five hundred dollars, to be recovered in an action brought in the district court by the board of county commissioners; the judgment shall be against him and his

bondsmen, and the proceeds of such fine shall go to the school fund of the county.

#### EQUALIZATION OF TAXES.

Sec. 21. The board of county commissioners of each county shall constitute a board for the equalization of the assessment of the several persons in the county substantially in the same manner as is required by the territorial board of equalization to equalize among the several counties of the territory, and they shall hold a special meeting on the first Monday of May in each year, and at such meeting they shall add to said assessment any taxable property in the county not included in the assessment as returned by the assessor, and shall assess the value thereof.

Board of county commissioners to equalize taxes

To hold special meeting on first Monday of May.

Sec. 22. Any person who may feel aggrieved at anything in the assessment of his property, may appear before the board of equalization, either in person or by agent, at the time mentioned in the preceding section, and have the same corrected in such manner as to said board shall seem just and equitable.

Person aggrieved before board and have assessment corrected.

Sec. 23. Each clerk of the board of the county commissioners shall, on or before the first Monday of June of each year, make out and transmit to the secretary of the territory, by mail or otherwise, an abstract of the real property in his county in which he shall set forth ;

Clerk of board to transmit to Secretary of Territory an abstract of real property in county. When.

1. The number of acres of land in his county and the aggregate value of the same, exclusive of town lots returned by the assessor as corrected by the county commissioners ;

What abstract to contain.

2. The aggregate value of real property in each town in the county, according to the valuation of the board of county commissioners ;

Same.

3. The aggregate value of personal property in his county.

Same.

Sec. 24. The governor, treasurer and auditor of the territory shall constitute a board of equalization, and shall, on or before the first Monday of July in each year, and as soon thereafter as the abstract from any one county is received, equalize the valuation of real property among the several counties and towns in the territory in the following manner :

Who shall constitute board of equalization for Territory. When to meet.

How they shall  
equalize valua-  
tion of real  
property.

1. They shall add to the aggregate valuation of real property, of each county, which they shall believe to be valued below its proper valuation, such per centum in each case as will raise the same to its proper valuation;

Same.

2. They shall deduct from the aggregate valuation of real property of each county which they shall believe to be valued above its proper valuation, such per centum in each case as will reduce the same to its valuation.

Duties of territorial board and clerks of county commissioners.

Sec. 25. Said governor, treasurer and auditor, shall keep a full record of their doings of such meeting and immediately after which the treasurer of the territory shall transmit to the clerk of the county commissioners of each county a statement of the per centum to be added to or deducted from the valuation of real property in his county. The clerk of the county commissioners shall add to or deduct from the valuation of each tract or parcel of real property in his county the required per centum on the same, and in each year the governor, treasurer and auditor shall determine the rate of tax to be levied and collected, which shall not exceed two mills on the dollar, and the treasurer of the territory shall notify the clerk of the county commissioners of the several counties of the rate of such tax, and the said clerk shall immediately deliver the equalized assessment roll with his warrant attached thereto to the sheriff of the county for collection.

Penalty against clerks for not complying with requirements of preceding section.

Sec. 26. If any clerk of the county commissioners shall neglect or refuse to transmit to the treasurer of the Territory the abstract of the assessment of the real property in the county, or to add or deduct the per centum fixed by the territorial board of equalization as required by this act, such clerk shall be deemed guilty of a misdemeanor for which he shall be prosecuted in the district court by indictment, and if found guilty, shall be fined in any sum not more than one thousand dollars, and shall also be liable on his official bond to any person who may have suffered damage thereby.

#### COLLECTION OF TAXES.

Duties of sheriff in collecting taxes.

Sec. 27. the sheriff immediately upon the receipt of the equalization assessment roll, shall proceed to collect the taxes, and the list and warrant of the clerk shall be his authority and

justification, and he is required to call upon every tax payer in his county before the first Monday in December following, and he is also authorized and required to collect so far as practicable the taxes unpaid on the tax books of previous years.

Sec. 28. It shall be the duty of every person subject to taxation at some time before the time mentioned in the previous section of this act, to pay his or her taxes, and if any neglects to pay them before the said first Monday of December following the levy of the tax, the collector is directed to make the same by distress and sale of his or her personal property excepting such as is exempt from taxation, and the tax list alone shall be a sufficient warrant for such distress.

When parties neglect to pay taxes.

Distress.

Sec. 29. When the collector distrains goods, he may keep them at the expense of the owner, and shall give notice of the time and place of their sale within five days after the taking, in the manner usually required to give notice of the sale of personal property under execution, and the time of sale shall not be more than ten days from the day of the taking; but he may adjourn the day of sale from time to time, not exceeding five days, and shall adjourn at least once when there are no bidders: and in case of adjournment he shall put up a notice thereof at the place of sale. Any surplus remaining above the taxes, charges of keeping, and fees of sale, shall be returned to the owner, and the collector shall on demand, render an account in writing of the sale and charges.

Proceedings of collector when he distrains.

Sale of property

surplus after sale to be returned to owner

Sec. 30. On the first Monday of January the unpaid taxes for the year shall draw interest as hereinafter provided; and taxes upon real property are hereby made a perpetual lien thereon against all persons; and taxes due from any person on personal property shall be a lien on any real property owned by such person.

when unpaid taxes shall draw interest.

Taxes on real property a perpetual lien.

Sec. 31. The collector shall continue to receive taxes after they have become delinquent, on the first Monday of December, until collected by distress, but if they are not paid before the first Monday of January he shall collect as a penalty for non-payment, from each tax payer so delinquent, one per cent. of the amount of his tax additional, and if not paid before the first Monday of December, he shall collect another one per cent.

Duty of collector after taxes have become delinquent.

To give receipt  
to tax payer.

Proviso.

Collector to  
make final set-  
tlement on first  
Monday of Jan-  
uary.

His duties then.

When county  
commissioners  
shall direct  
treasurer to re-  
fund to tax-  
payer.

additional, and so on for each full month which shall expire before the tax shall have been paid. The collector shall in all cases make out and deliver to the tax payer a receipt for taxes paid, stating the time of payment, the description of the land, the amount of any kind of tax, the interest on each, and costs, if any, and shall make the proper entries of such payment in the books of his office; *Provided*, That it shall be the duty of each county collector to receive the full amount of any county, territorial, or school tax, whenever the same shall be tendered, and give a separate receipt therefor.

Sec. 32. On the first Monday of January the county collector shall make a final settlement with the county treasurer, and shall return a list of all unpaid taxes, and the taxes collected, after deducting four per cent. thereof, for his services in collecting the same; and thereafter all delinquent taxes shall be payable to the county treasurer, together with interest at the rate of one per cent. a month until paid.

Sec. 33. In all cases where any person shall pay any tax or any portion thereof that shall thereafter be found to be erroneous or illegal, whether the same be owing to clerical or other errors, the board of county commissioners shall direct the treasurer to refund the same to the tax payer, or in case any real property, subject to taxation, shall be sold for the payment of such erroneous tax, the error in tax may at any time be corrected as above provided, and shall not affect the validity of the sale.

#### DELINQUENT TAXES.

When lands to be  
sold for delin-  
quent taxes.

Sec. 34. On the first Monday in January, in each year, the county treasurer is required to offer at public sale at the court house, or if there is no court house, at the office of the county treasurer, all lands on which taxes of any description for the preceding year shall have been delinquent and remain due, and such sale shall be made for and in payment of the total amount of taxes, interest and cost, due and unpaid on such real property.

How notice of  
sale to be given.

Sec. 35. The county treasurer is required to give notice of the sale by publishing an advertisement thereof in some newspaper printed in his county if any such there be, and if there



be no such paper printed in his county, then in the newspaper printed in this Territory nearest the county seat, and by posting a copy of said notice on the door of the court house in said county, but if there is no court house, then upon the door of the county treasurer's office, at least four weeks before the day of the sale. Such advertisement shall state the time and place of sale, and contain a description of the several parcels of real property to be sold, as the same are recorded on the tax list, the amount of tax, interest, and costs due on each tract, and the names of the owners when known, to whom taxed.

What notice to state.

The treasurer is directed to charge and collect, in addition to the taxes and interest the sum of twenty cents, on each tract of land advertised for sale, when the same is included in one line of such single column width, of the paper in which the publication is made, but if the description occupies more than one line of such single column width, then the same shall be thirty cents for each, which sum shall go into the county treasury.

What to be charged in addition to taxes and interest.

Sec. 36. The county treasurer shall attend at the court house or at his own office as herein provided, on the day of sale, and then and there, at the hour of ten o'clock, in the forenoon proceed to offer for sale, separately, each tract or parcel of real property, advertised for sale, on which taxes and costs have not been paid.

County treasurer to conduct sale.

Sec. 37. The purchaser who offers to pay the amount of taxes due on any parcel of land for the smallest portion of the same, is to be considered the purchaser. The homestead is liable to be sold for no tax, save that which is due on itself, exclusively, and to that end the quantity of land bid may be obtained by drawing the division line in any direction so as to avoid the homestead.

Who considered purchaser.  
Homestead.

Sec. 38. The treasurer shall continue the sale from day to day as long as there are any bidders, or until the taxes are paid, but in no case shall the sale be kept open for more than fifteen days.

Treasurer to continue sale.  
How long.

Sec. 39. The person purchasing any lot or parcel of land shall forthwith pay to the treasurer the amount of taxes and costs on said lot or parcel of land, on failure to do so, said land,

Purchaser to pay what.

**Failure to do so.** shall at once be sold again in the same manner as if no sale had been made.

**Irregularity in notice not to affect legality of sale.**

Sec. 40. No irregularity or informality in the advertisements shall affect in any manner the legality of the sale or the title to any real property conveyed by the treasurer's deed under this act, but in all cases the provisions of this act shall be deemed sufficient notice to the owners, of the sale of their property.

**Certificate of publication where filed.**

Sec. 41. The treasurer shall file in the office of the clerk of county commissioners the certificate of the publisher.

**Penalty against county officers who shall purchase real property sold for taxes.**

Sec. 42. If any county treasurer, or clerk, or collector, shall be hereafter, either directly or indirectly concerned in the purchase of any real property sold for the payment of any tax, he shall be liable to a penalty of not more than one thousand dollars, to be recovered by an action in the district court, brought by the board of county commissioners; the judgment shall be against such treasurer or collector, as the case may be, and his bondsmen, and the proceeds shall go to the school fund, and such sale shall be void.

**When treasurer to adjourn sale.**

Sec. 43. When all the parcels of real property advertised for sale shall have been offered for sale as provided for in this act, and a portion thereof shall remain unsold for the want of bidders on the fifteenth day of the sale, it shall be the duty of the treasurer to adjourn the sale to the first Monday of January of the next ensuing year.

**Treasurer to deliver to purchaser a certificate.**

Sec. 44. The county treasurer shall make out, sign and deliver to the purchaser of any real property sold for the payment of taxes as aforesaid, a certificate of purchase, describing the property on which the taxes and costs were paid by the purchaser as the same are described in the record of sales, and also, how much and what of each lot was sold. If any person shall become the purchaser of more than one parcel of land, he may have the whole put in one certificate. For each certificate the purchaser shall pay a fee of fifty cents to the treasurer.

**What certificate to contain.**

**Certificate assignable.**

Sec. 45. Such certificate shall be assignable by endorsement.

Sec. 46. Real property sold under this act may be redeemed at any time before the expiration of three years from the date

of the sale, by the payment to the treasurer, to be held by him subject to the order of the purchaser, the amount for which the same was sold, together with twenty per cent of the amount in addition thereto, and ten per cent. interest per annum on the whole amount from the last day of sale, and the amount of all taxes accruing on the same property after such sale, with ten per cent. interest per annum on such subsequent taxes, unless such subsequent taxes have been paid by the person for whose benefit the redemption was made; *Provided*, That if real <sup>Property</sup> property of any minor, married woman, or lunatic, be sold for taxes, the same may be redeemed at any time within one year after such disability be removed, upon the terms specified in this section, which redemption may be made by the guardian or legal representatives.

Sec. 47. The county treasurer shall, upon application of any party to redeem any real property sold under the provisions of this act, and being satisfied that such party has a right to redeem the same, and upon the payment of the proper amount, issue to such party a certificate of redemption, setting forth the facts of the sale substantially as contained in the certificate of sale, the date of the redemption, the amount paid and by whom redeemed; and he shall make the proper entries in the book of sales in his office, and shall immediately give notice of such redemption to the person holding the certificate of purchase.

Duty of treasurer on application of party to redeem.

Sec. 48. Immediately after the expiration of the term of three years from date of sale of any land for taxes under the provisions of this act, which has not been redeemed, the treasurer then in office shall make out a deed for each lot of land sold and remaining unredeemed, and deliver the same to the purchaser upon the return of the certificate of purchase.

When deed to be delivered to purchaser.

Sec. 49. The treasurer is authorized to demand fifteen cents for each folio in each deed made by him on such sales, but any number of parcels of land bought by any person may be included in one deed, as may be desired by the purchaser.

Compensation of treasurer on such sales.

Sec. 50. The deed, when duly executed, acknowledged and recorded, shall be *prima facie* evidence in all courts of this territory of the following facts:

Deed prima facie evidence of what

**Same.** 1. That the real property conveyed was subject to taxation for the year or years stated in the deed ;

**Same.** 2. That the taxes were not paid at any time before the sale ;

**Same.** 3. That the property conveyed had not been redeemed from the sale at the date of the deed ; and in all suits involving the title to property claimed by virtue of a deed executed substantially as aforesaid by the treasurer, the person claiming title adverse shall be required to prove, in order to defeat the said title, either that the said property was not subject to taxation for the year or years named in the deed, that the taxes had been paid before the sale, or that the property had been redeemed from the sale according to the provisions of this act, and that such redemption was made for the use of persons having the right of redemption under the laws of this territory ; but no person shall be permitted to question the title acquired by a treasurer's deed, without first showing that he or she, or the person under whom he or she claims title, had title to the property at the time of the sale, or that the title was obtained from the United States after the sale ; but in any case where any person had paid his taxes, and by any mistake of the treasurer such payment does not appear upon his books, and the land upon which the taxes were paid was afterwards sold, the treasurer's deed shall not convey the title ; *Provided, That* in all cases where the owner of lands sold for taxes shall resist the validity of such tax title, he may show fraud committed by the officer selling the same, or in the purchase, to defeat the same ; and if fraud is so established such sale shall be void.

**Proviso.**

When land sold  
by error or un-  
lawful act of  
treasurer.

Sec. 51. When, by mistake or unlawful act of the treasurer, land has been sold on which no tax was due at the time, or whenever land is sold unlawfully in consequence of any other mistake or irregularity rendering the sale void, the county shall hold the purchaser harmless by paying him the amount of the principal and interest and costs to which he would have been entitled had the land been rightfully sold, and the treasurer and his sureties will be liable to the county for the amount of his official bond ; *Provided, That* the treasurer or his sureties shall be liable only for his own or his deputy's acts.

**Proviso.**

Sec. 52. The books and records belonging to the offices of the clerk of the board of county commissioners and the county treasurer, or copies thereof duly certified, shall be deemed sufficient evidence to prove the sale of any real property for taxes, the redemption thereof, or the payment of taxes thereon.

What deemed sufficient evidence to prove sale of real property for taxes.

Sec. 53. No action for the recovery of real property sold for non payment of taxes shall be maintained unless the same be brought within six years after the date of the sale for taxes aforesaid.

Action for recovery of real property sold for taxes to be brought within six years.

Sec. 54. Each county is responsible to the territory for the amount of tax levied for territorial purposes, excepting such amounts as are certified to be unavoidable, double, or erroneous assessments.

Each county responsible to territory for what.

Sec. 55. If any county treasurer prove to be a defaulter for territorial revenue, such amount shall be made up to the territory within the next three years, in such manner as the county commissioners may direct; in such cases, the county can have recourse to the official bond of the treasurer for indemnity.

When county treasurer defaulter for territorial revenue

Sec. 56. If any county treasurer shall loan out or in any way use county funds for private purposes, he shall be liable to a fine not exceeding one thousand dollars, for the benefit of common schools of the county, to be procured as other fines.

Penalty for loaning county funds

Sec. 57. The county treasurer shall in January of each year, make a full and complete settlement with the county commissioners, and on or before the last Monday in January, he shall make a full and complete settlement with the territorial treasurer, in which settlement he shall be allowed for his services as county treasurer four per cent. of the amount of the territorial tax paid by his county, and mileage at the rate of ten cents per mile, for every mile necessarily travelled in going from the county seat of his county to the capital of the territory.

When treasurer make settlement with commissioners

Compensation allowed to treasurer.

Sec. 58. When any treasurer goes out of office, he shall make a full and complete settlement with the county commissioners, and shall deliver all books, papers, moneys, and all other property appertaining to his office, to his successor, taking his receipt therefor.

Duty of treasurer on going out of office.

Penalty against  
officer for not  
complying with  
provisions of  
this act.

Sec. 59. Any officer neglecting or refusing to comply with this act, for whose negligence no other penalty is provided by this act, shall be liable to a fine not exceeding one thousand dollars, to be prosecuted by the district attorney for the benefit of common schools.

Acts repealed.

Sec. 60. All provisions of acts in conflict with this act are hereby repealed.

When act to  
take effect

Sec. 61. This act shall take effect and be in force from and after its passage and approval. Approved, January 12th, 1866.

Time for collect-  
ing taxes in  
Clay county ex-  
tended.

Sec. 62. That the time for collecting the taxes for 1866, in Clay county, be extended to the first Monday in February, 1867.

Attested copy of  
this act to be  
sent to Clay Co.

Sec. 63. That an attested copy of this bill be sent to the proper officers of Clay county.

When this act to  
take effect.

Sec. 64. This act shall be in force from and after the first Monday of January, 1867.

**SPECIAL AND PRIVATE**

**LAWS,**

**MEMORIALS AND RESOLUTIONS**

**PASSED AT THE SIXTH SESSION OF THE**

**LEGISLATIVE ASSEMBLY**

**OF THE**

**TERRITORY OF DAKOTA.**

**BEGUN AND HELD AT YANKTON, THE CAPITAL OF SAID  
TERRITORY, ON MONDAY, DECEMBER 4th, A. D. 1866,  
AND CONCLUDED JANUARY 12th, A. D. 1867.**

**SPECIAL AND PRIVATE  
LAWS, MEMORIALS AND RESOLUTIONS.**



# SPECIAL AND PRIVATE LAWS.

## FERRIES.

### CHAPTER I.

#### AN ACT TO REGULATE FERRIES ON THE BIG SIOUX RIVER IN UNION COUNTY.

- Section 1.** To whom ferry charters granted in Union County. Proviso.
2. Rights conferred construed to pertain to such persons as keep good boats. Rates of toll.
  3. Ferryman to post up list of tolls near each landing. Penalty for violating provisions of this act.
  4. Acts repealed.
  5. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

Section 1. That a ferry charter be and the same is hereby granted to each actual freeholder residing upon lands bordering upon either bank of the Big Sioux river in Union county, to keep and run a ferry within the boundaries of his own premises, *Provided*, That the provisions of this bill shall not apply to those parties holding ferry charters under the authority of the legislative assembly of this territory; *And further* *provided*, That this act shall not be construed to apply to any lands beyond the the limits of this territory.

To whom ferry charters granted in Union Co.  
Proviso.

Rights conferred construed to pertain to such persons as keep good boats.

Sec. 2. The rights herein conferred shall be construed to pertain only to such persons as shall keep a good and reliable boat or boats at all times of the season for the safe conveying of the public travel, in which case, and not otherwise, each ferryman shall have the right to cross the public travel, and to demand and receive therefor toll at the following rates:

|                       |                                       |         |
|-----------------------|---------------------------------------|---------|
| <b>Rates of toll.</b> | Two horses and wagon, or carriage,    | 25 cts. |
|                       | Two oxen or two mules and wagon,      | 25 "    |
|                       | Two additional horses, mules or oxen, | 20 "    |
|                       | One horse and buggy,                  | 20 "    |
|                       | One horse and man,                    | 15 "    |
|                       | Footman,                              | 05 "    |
|                       | Loose cattle and horses, per head,    | 10 "    |
|                       | Loose hogs and sheep,                 | 05 "    |

Ferryman to post up list of tolls near each landing.

Sec. 3. Every person keeping and running a ferry under the provisions of this act, shall keep a list of the tolls defined in section two, posted up in a conspicuous place near each ferry landing; and any ferryman who shall violate any of the provisions of this act, upon conviction thereof, before any justice of the peace of the proper county, shall forfeit to the county the sum of one hundred dollars, damages to the injured parties.

Penalty for violating provisions of this act.

Acts repealed.

Sec. 4. That chapter 15, laws of 1862, and chapter 7, laws of 1864-5, are hereby repealed; and all of chapter 16, laws of 1862, be and the same is hereby repealed, so far as the same applies to Paul Paquette, mentioned in said chapter.

When act to take effect.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved, January 11th, 1867.

## MANUFACTURES.

## CHAPTER II.

AN ACT TO INCORPORATE THE DAKOTA MANUFACTURING  
AND MINING COMPANY.

- Section 1.** Names of corporators. Style of company.
2. What company may manufacture and mine. May lease land.
3. Amount of capital stock. Shares and transfers of stock.
4. Board directors. Officers and term of office. When may commence business. Vacancies. By laws. Corporate powers.
5. Act to be void unless ten thousand shall be paid in within three years.
6. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of  
Dakota:*

Section 1. That Ephriam M. Hutchings, John M. Baker, John D. Wisely, Jessie Druke, W. L. Westbrook, Edmund Bartlett, Kilburn Knox, Joel F. Wisely, J. W. Turner, Jas. McHenry, A. G. Fuller, J. B. S. Todd, D. T. Bramble, W. N. Collamer, Wm. Searles, I. T. Gore, Eli B. Wixson, Nelson Miner, F. Riendeau, Chas. McCarthy, Wm. Stevens, Kerwin Wilson, R. M. Johnson, Hiram Dryer, F. J. Dewitt, C. E. Hedges, W. A. Raleigh, Wm. Tripp, J. A. Potter, M. K. Armstrong, G. W. Kingsbury, J. A. Lewis, P. H. Conger, Dr. Thomas, Austin Cole, Charles La Breeche, D. M. Mills, D. V. Ross, O. F. Stevens, John J. Thompson, A. Van Osdel, Canute Weeks, G. W. Kellogg, Geo. H. Hand, J. R. Hanson, J. M. Stone, W. P. Lyman, and others, and their successors

Names of corporators.

**Style of company** be, and they are hereby constituted a body politic and corporate, by the name of the Dakota Manufacturing and Mining Company, with all the powers and authority for the purposes hereinafter mentioned.

**What company may manufacture and mine. May lease land.**

Sec. 2. The corporation is hereby authorized and empowered to engage in the manufacture of wheat and other grains, and of woolen and cotton fabrics, lumber, iron, lead or any other metals or minerals, and in mining for coal or coal oil, and for this purpose may purchase in fee simple, or base [lease] as much real estate as may be deemed necessary by the board of directors.

**Amount capital stock. Shares and transfers of stock.**

Sec. 3. The capital stock of said company shall be one million of dollars, and be divided into shares of one hundred dollars each, and shall have the power to issue and transfer said stock in such manner as the board of directors of said corporation shall direct.

**Board of directors.**

Sec. 4. The affairs of said company shall be managed by five directors, one of whom shall be president, all chosen by the stockholders in said company; but the first board of directors shall be composed of the corporators above named, who shall continue in office until their successors are elected by a majority in interest of the stockholders, of said corporation; and the board of directors elected by the stockholders shall continue in office for one year, or until their successors are elected.—

**Officers and terms of office.**

The stockholders may elect any other officers which may be deemed necessary, or empower the board of directors to appoint such officers. In all elections each stockholder shall have one vote for each share; and the said company may commence

**When may commence business.**

business as soon as the sum of five thousand dollars is subscribed; and if any of the above named corporators shall decline or refuse to act, a majority of the others shall fill the vacancies by appointment. They may adopt such by-laws, rules and regulations for the government of the corporation and management of its affairs and business as they deem proper, not inconsistent with the organic act and laws of this Territory, and the laws of the United States. The said corporators, or any of them, may open books for the subscription to the capital stock of said company, at such time and place as they

**Vacancies. By-laws.**

may direct. The said company shall have full and complete corporate powers in the premises to regulate the business and affairs of the same; they shall have the right to make and use a common seal and alter the same at pleasure, and sue and be sued, plead and be impleaded in all the courts of this Territory; contract and be contracted with, and do all other things that may be necessary to perfect and carry on the business of said corporation.

Sec. 5. This act shall be void and of no effect unless the said corporation shall have at least ten thousand dollars for the purposes and objects specified by the provisions of this act, within three years from and after its approval.

Act to be void unless ten thousand shares be paid within three years.

Sec. 6. This act shall take effect and be in force from and after its passage and approval.

When act to take effect

Approved, January 11th, 1867.

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## MILL DAM AND MILL.

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### CHAPTER III.

AN ACT GRANTING TO PRESTON H. HOTCHKISS AND AMOS DEXTER THE RIGHT TO ERECT AND MAINTAIN A MILL DAM AND MILL ON THE BIG SIOUX RIVER.

- Section 1. P. H. Hotchkiss and Amos Dexter, authorized to erect a mill dam in Union county. Proviso.
2. To be erected within one year.
  3. Chapter 51, laws 1862-3 made applicable to this act.
  4. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

[Section 1.] That a charter be and the same is hereby grant-

P. H. A. & H. K. & A. M. S. Dexter, authorized to erect a mill dam in Union Co.

ed to Preston H. Hotchkiss and Amos Dexter, of Union county, to erect and maintain a mill dam across the Big Sioux river, eight feet high, on lot number five (5), section number five (5), township number ninety (90) north, range number forty-eight (48) west, in said Union county, with exclusive rights five miles up and down said river, from said point; *Provided*, That the said parties shall be liable for damages caused by the erection of said mill dam.

Proviso.

To be erected within one year.

Sec. 2. The said Hotchkiss and Dexter shall before the expiration of one year from the approval of this act, create a good and substantial mill dam and mill at said point on the Big Sioux river, the said mill to be supplied with one run of stone, and put in running order for the grinding of grain, before the first day of January next

Chapter 51, laws 1862-3 made applicable to this act.

Sec. 3. That chapter 51, laws of 1862-3, entitled, "An act to encourage the erection of mill dams and mills," be and the same is hereby made to apply in all its provisions not in conflict with this act, to the government of the parties herein named in erecting, maintaining and carrying forward the franchises granted under this act.

When not to take effect.

Sec. 4. This act shall take effect and be in force from and after its passage and approval.

Approved, January 11, 1867.

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## RAILROADS.

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### CHAPTER IV.

AN ACT TO INCORPORATE THE MINNESOTA AND MISSOURI RIVER RAILROAD COMPANY.

- Section 1.** Name of corporators. Name of road. Powers granted.  
Capital stock and shares. First board of directors.
2. When to organize. Officers. Vacancies how filled.—  
Proviso.
3. Powers conferred. Section of the road. Right to keep  
a ferry across the Missouri river.
4. Directors to open books of subscription.
5. Company may take relinquishments of right of way.—  
Land grant. When road passes through land of a  
minor.
6. When owner of land refuses to relinquish right of way.  
Proceedings in such cases.
7. Same.
8. How company may occupy land when owner refuses to  
relinquish right of way.
9. Company authorized to borrow money. Rate of interest.  
Property of road may be mortgaged. Company may  
issue certificates of indebtedness, &c. Sinking fund.
10. Dividends. Charter perpetual.
11. Company may make by-laws. Proviso. Charter and  
by-laws to be printed.
12. Stock and transfers of same. Unassessable stock. Oth-  
er stock may be assessed.
13. Meetings of stockholders, how called.
14. Powers of company in connection with other roads.—  
May consolidate with other roads.
15. Notice to be given of election of directors. Calls for  
installments, &c.
16. Company to repair highways, bridges, &c., that they may  
have injured.
17. What property may be taken in payment of subscriptions  
to stock.
18. Three years allowed to commence road. Five years to  
complete twenty miles of road.
19. This public act.
20. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of  
Dakota :*

**Section 1.** That the persons hereinafter named, to-wit; M.  
D. Mills, Charles La Breeche, O. F. Stevens, Geo. W. Kellogg,

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Names of corporations.    | Michael Curry, I. T. Gore, Eli Wixson, Ebenezer La Gro, J. P. Kidder, John L. Jolley, Nelson Miner, Nathaniel V. Ross, John W. Turner, James McHenry, Franklin Taylor, John W. Boyle, H. J. Austin, Ole Bottolfson, Amon Hanson, William Shriner, Geo. W. Kingsbury, A. G. Fuller, S. L. Spink, D. T. Bramble, Geo. H. Hland, H. C. Ash, Ara Bartlett, Nelson Collamer, M. K. Armstrong, A. Van Osdel, William Tripp, A. J. Faulk, Newton Edmunds, B. M. Smith, Charles F. Peotte, Walter A. Burleigh, Richard Johnson, Austin Cole, D. P. Bradford, Charles E. Hedges, P. H. Conger, J. B. S. Todd, Chas. McCarthy, J. Lewis, F. J. Dewitt, J. M. Stone and their associates, be and the same are hereby made and constituted a body corporate, by the name and style of the Minnesota and Missouri River Railroad [Company] with perpetual succession, by that name and style shall be capable in law of taking, purchasing, holding, leasing, selling, conveying real and personal estate and property, so far as the same may be necessary for the purposes hereinafter mentioned; and in their said corporate name to sue and be sued, to have a common seal, which they may alter or renew at pleasure; to have a capital stock of one million of dollars, to be divided into shares of ——— dollars each, which said capital may be increased from time to time by a vote of a majority of the directors of the corporation, to the sum of six millions of dollars; <i>Provided</i> , This sum be requisite to the completion and fulfillment of the objects and purposes of the corporation hereby created, and the aforementioned persons shall be, and constitute the first board of directors, and may have and exercise all the powers, rights, privileges, and immunities, which are or may be necessary to carry into effect the purposes and objects of this act as hereinafter set forth. |
| Name of road.             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Powers granted.           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Capital stock and shares. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| First board of directors. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| When to organize.         | Sec. 2. Within ninety days after the passage of this act the said directors shall organize the board by electing one of their number president, and by also electing from their number a vice-president, secretary and treasurer, which organization shall be certified by said directors, or a majority of those present and such certificate shall be recorded in the record book of said company, and said record shall be sufficient evidence of the facts therein stated, and said directors shall hold their offices                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Officers.                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |



until the first Tuesday of January, A. D., 1863, and until their successors shall be elected and qualified as hereinafter provided. Vacancies how filled.

All vacancies in said board may be filled by a vote of a majority of the directors present at any regular meeting of the board, or at a special meeting called for that purpose. *Provided,* Provide. That three weeks notice of the time and place of holding the first meeting shall be given by publishing the same for three successive weeks in the Union and Dakotian, a weekly newspaper, published at Yankton, in Dakota Territory.

Sec. 3. The said company are hereby authorized and empowered to locate, and, from time to time, to alter, change, relocate, construct, reconstruct, and fully to finish, perfect, and maintain a railroad, with one or more tracks, commencing at a point on the boundary line between the State of Minnesota and the Territory of Dakota, where said line shall or may be intersected by a railroad running west from the State line of Minnesota thence to Sioux Falls; thence to some practicable point on the Missouri river between the town of Vermillion and Fort Randall, inclusive of said town of Vermillion and Fort Randall, and said company are further authorized to use and operate said railroad, and shall have power and authority to regulate the time and manner in which persons, goods and effects shall be transported on the same, and to prescribe the manner in which said railroad shall be used, and the rate of toll for the transportation of persons and property under their charge, and shall have power to provide all necessary stock and materials for the operation of said railroad, and shall have power to erect and maintain all necessary depots, stations, shops, and other buildings and machinery for the accommodation, management, and operation of said road, and said company shall have the exclusive right to keep and maintain a ferry across the Missouri river for the space of two miles below and two miles above said railroad crossing, during the continuance and life of this charter incorporating said railroad company. Powers conferred. Location of the road. Right to keep ferry across the Missouri river.

Sec. 4. Said directors shall, as soon after the passage of this act as practicable, open books for the purpose of receiving subscriptions to the capital stock of said company, at such places along the line of said road and elsewhere as said directors shall determine, under the direction of such agents as said directors Directors to open books of subscription.

shall appoint, and said books shall be kept open from time to time, until the amount of said capital stock shall be subscribed, or until said directors shall determine to close the same.

Company may take relinquishments of right of way.

Land grant.

Sec. 5. Said company may at any time take voluntary relinquishments for the right of way for said road, the necessary depots, water stations, wood yards, and out buildings, and may receive, and are hereby authorized to receive any grant or grants of land which may hereafter be made by the Congress of the United States to this Territory, to encourage and aid in the building and equipment of this line of road, and such connections as may be provided by said Territory or future State, and if the land through which the road shall pass belongs to a minor, in whole or in part, the guardian of such minor shall have power to convey to said company, on fair and equitable terms; but every such conveyance by a guardian shall be subject to the approval of the court having probate jurisdiction, in the county in which said lands are situated.

When road passes through land of a minor.

When owner of land refuses to relinquish right of way.

Sec. 6. If any owner of a tract of land through which said road may pass, refuse to relinquish the right of way for said road to said company, or if the owner be an infant, or person of unsound mind, or a non-resident of the territory, the facts of the case shall be clearly stated in writing to the judge of the district court of the county in which said land is situated, either in vacation or term time, and the judge shall appoint three disinterested citizens of the county, as commissioners, to view such lands, who shall take into consideration the value of the land and the advantages and disadvantages of the road to the same, and shall report, under oath, what damages shall be done to said land, or any improvement thereon, stating the amount of damages assessed, and shall return a plat of the land thus condemned. Written notice of such application to the judge shall be given to the owner of such land, five days before making such application, if such owner reside within the county where said land is situated. If such owner is a non-resident of said county, he may be served by actual notice or by publication for four weeks in some newspaper published nearest to said land.

Proceedings in such cases.

Sec. 7. The persons to view and value such lands shall file <sup>Same.</sup> their report in the office of the clerk of the district court of the county where such lands are situated, and if no valid objection be made to said report within ten days, the court shall enter judgment against said company for the amount of damages so assessed, and shall make an order vesting in said company the fee simple title to the lands described in said plat and report, as given to the use of said road. Objections to such report must be filed within ten days from the time the same was filed, which objections may be examined by said judge in term time or vacation, and he may hear testimony, and by judgment confirm said report, or may set aside the same and appoint three other viewers, who shall proceed in the same manner and make their report, until the same be confirmed; in all such cases the court shall adjudge the costs of the proceedings according to the equity of the case, and the said court shall have power to make such orders, and take such other steps as will promote the ends of justice between the owner of said lands and said company.

Sec. 8. In case of refusal of said right of way, by the owner of land, the said company may occupy the same for the purpose of constructing the said road, upon filing good and sufficient bonds conditioned to pay all damages that may be adjudged against them, with the judge of the district court of the county where the land is situated; and upon his approval of the same. <sup>How company may occupy land when owner refuses to relinquish right of way.</sup>

Sec. 9. The said company are authorized and empowered to borrow, from time to time, such sums of money, not exceeding <sup>Company authorized to borrow money.</sup> at any one time double the amount of stock subscribed, and upon which not less than five per cent. shall have been paid in, as may be necessary for constructing, completing, and finishing or operating said railroad, and to issue and dispose of their bonds in denominations of not less than one hundred dollars for any amount so borrowed, and to pay a rate of interest <sup>Rate of interest.</sup> therefor not exceeding ten per cent. per annum, and to pledge and mortgage the said road and its appendages or any part thereof, or any other property or effects, rights, credits, or franchises of the said company as security for any loan of

**Property of road may be mortgaged.** money and interest thereon, and to dispose of the bonds issued for said loan at such rates and on such terms as a majority of the directors may determine, and may make such bonds convertible into the capital stock of said company at the option of the holder; and the president and secretary shall have power, and it shall be lawful for them on the written consent of a majority of the directors, or by resolution passed at any regular or called meeting for such purpose, to issue certificates of indebtedness, or bills or promissory notes, duly certified and signed by each of them, in their official capacity, to an amount not exceeding the whole amount of capital stock held by said incorporation, and the said company may provide a sinking fund for the redemption of said bonds, certificates of indebtedness, bills or promissory notes, out of the earnings of said road.

**Company may incur debts for of indebtedness &c.**

**Sinking fund.**

**Dividends.**

Sec. 10. The said company may annually or semi-annually make such dividends among the stockholders as they may deem proper, said dividend to be declared out of the net profits, receipts, or income of said company, and after first having deducted from said net profits a reasonable amount to be set apart for a sinking fund for the ultimate liquidation of the indebtedness of said company. The rights, privileges, and immunities accruing to the persons named in the first section of this act, and their successors in office, by the provisions of this bill, are declared to be perpetual.

**Charter perpetual.**

**Company may make by-laws.**

Sec. 11. Said company have power to make, ordain, and establish all such by-laws, rules and regulations as may be deemed expedient and necessary to fulfill the purposes and carry into effect the provisions of this act, and for the well ordering and securing the affairs and interests of said company; *Provided*, That the same be not repugnant to the constitution of the United States and the laws of this territory. This act, and all by-laws that may be adopted by the directors of said company, and all additions thereto and alterations thereof shall, from time to time, be printed in a convenient form, and be distributed among the stockholders of said company.

**Proviso.**

**Charter & by-laws to be permanent.**

Sec. 12. The stock of said company shall be deemed personal estate, and shall be transferable in the manner and un-

der such restrictions and conditions as may be provided by the by-laws of said company; *And it is hereby further provided* That twenty per cent. of the original capital stock of said company shall be denominated unassessable stock, which said stock shall not be liable by any by-laws or rules and regulations of said company to be assessed for the construction, equipment, or management of said road, or in any manner taxed by said incorporation. The balance of said original stock, and all other stock created under the privileges of this charter by said company, shall be chargeable and liable to be assessed *pro rata* for the expense incurred in the construction and equipment of said road.

Stock and transfers of same.

Unassessable stock.

Other stock may be assessed.

Sec. 13. It shall be lawful for a majority of the persons named in this act, or their successors, by giving thirty days' notice, stating the objects, to call a meeting of the stockholders of said company, and the secretary of said company shall certify said call, and record the same, as well as all matters that may be transacted under said call, in a suitable book provided for such purpose.

Meetings of stockholders how called

Sec. 14. Said company shall have power to unite its road, in whole or in part, with any other railroad or railroads either in this Territory or in the states of Iowa, Minnesota, or Territory of Nebraska, and to grant to any such company or companies, the right to construct, operate, or use this line of road, and to lease its right of way and franchises, together with its equipments, rolling stock, furniture, and materials used in constructing or operating said road, and authorize such railroad company or companies to complete, finish, use, and operate such line of roads so purchased or leased, upon such terms as may be mutually agreed between the said company or companies, or may consolidate the capital stock with the capital stock of any railroad company or companies with which it shall intersect, shall have power to place the road of said company and its capital stock so consolidated, under the direction of a board of directors of not less than five persons, who shall be chosen from the stockholders of the company so consolidated, not less than two of which shall have been members and stockholders of the company previous to its consolidation as aforesaid.

Powers of company in connection with other roads.

Notice to be given of election of directors and calls for installments &c.

Sec. 15. Notice shall be published in at least one newspaper printed in the Territory, for the election of directors and calls for installments to be made upon the capital stock, and all meetings of stockholders; all matters intended for the action of stockholders, by the directors or stockholders authorized to call meetings, shall be published in the notice given for the meeting before which said matters will be brought.

Company to repair highways, &c. that they may have injured.

Sec. 16. The said corporation shall be bound to repair all public highways or bridges which may be injured in constructing said railroad, and shall restore them, as far as practicable, to as good condition as they were before they were injured.

What property may be taken in payment of subscriptions to stock.

Sec. 17. Said company are hereby authorized to take and receive from the several subscribers to said capital stock, money, labor, materials, cars, locomotives, or other articles adapted to the construction or operation of said railroad, or any property that in the opinion of the board of directors, may be exchanged or converted to such use, and, upon receiving full payment in manner aforesaid of such subscription of stock, may issue to such subscriber or subscribers, certificates therefor.

Three years allowed to commence road. Five years to complete twenty miles of road.

Sec. 18. The company shall be allowed three years from the passage of this act for the commencement of said road, and in case at least twenty miles of the same shall not be completed in five years thereafter, the privileges herein granted shall be forfeited.

This public act.

Sec. 19. This act shall be construed beneficially for all purposes herein specified or intended, and shall be deemed and taken as a public act.

When act to take effect.

Sec. 20. This act shall take effect and be in force from and after its passage.

Approved, January 11th, 1867.

## CHAPTER V.

**AN ACT TO INCORPORATE THE DAKOTA AND NORTHWEST-  
ERN RAILROAD COMPANY.**

- Section 1.** Names of corporators. Style of company. Capital stock and shares. Proviso.
2. When company shall organize. To hold office until the first Monday in January, 1868. Vacancy.
  3. Powers conferred. Route of road. Powers conferred.
  4. Subscriptions to capital stock.
  5. Right of way. May take grant of lands. Lands of minors.
  6. When owner of land refuses to relinquish right of way. Proceedings in such cases.
  7. Same.
  8. When company may occupy land on filing bonds
  9. Company authorized to borrow money. May issue bonds, and mortgage property.
  10. Dividends. Charter perpetual.
  11. May make by-laws. Proviso. By laws &c. to be printed.
  12. Stock, and how transferrable. Unassessable stock. All other stock assessable.
  13. Meetings of stockholder how called.
  14. What roads the company may unite with. May consolidate with other roads.
  15. Notice to be given of all meetings, and calls for installments on stock.
  16. Company to repair all bridges and highways damaged in constructing the road.
  17. What property may be taken in pay.
  18. Company allowed five years to commence the road, and ten to complete it to Bon Homme.
  19. This a public act.
  20. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of  
Dakota:*

**Names of corpor-  
ators.**

Section 1. That the persons hereinafter named, to wit; A. J. Faulk, William Tripp, J. B. S. Todd, Walter A. Burleigh, Ara Bartlett, B. M. Smith, S. L. Spink, M. K. Armstrong, D. T. Bramble, W. N. Collamer, H. C. Ash, A. G. Fuller, James S. Foster, Geo. W. Kingsbury, Geo. Weaver, J. P. Allison, F. Zebach, Mahlon Gore, L. D. Parmer, J. H. Charles, E. Kirk, J. C. C. Hoskins, J. Stone, James E. Booge, Wm. Eney, C. K. Smith, C. K. Howard, T. Bruner, T. J. Kinkaid, Chs. La Breeche, O. F. Stevens, Geo. W. Kellogg, I. T. Gore, Wm. Gray, Michael Curry, D. M. Mills, J. W. Turner, J. P. Eider, P. H. Jewell, Nelson Miner, Ole Buttolfson, A. Van Osdel, Felix Le Blanc, Canute Wicks, Amon Hanson, James McHenry, ——— Blair, President of the Northwestern R. R., ——— Walker, Vice President do., A. W. Hubbard, Alex. Ramsey, D. S. Norton, Ignatius Donally, Geo. S. Becker, Edmund Rice, Green Clay Smith, Geo. M. Pinney, ——— McLean, J. W. Boyle, R. M. Johnson, Austin Cole, Hugh Fral y, P. H. Conger, R. J. Thomas, John Thompson, Kirwin Wilson, Wm. Stevens, William Cox, C. Duchame, J. V. Hamilton, C. H. McCarthy, John Dillon, Joel A. Potter, J. A. Lewis, Joseph S. Collins, Geo B. Hoffman, Hiram Dyer, Gas Gilbert, John Govey, E. H. Duffee, J. Shaw Gregory and Wm. P. Lyman, Geo. H. Hand, F. J. Dewitt, and Wm. Bordino, be and the same are hereby made and constituted a body politic and cor-

**Style of company**

porate, by the name and style of the Dakota Northwestern Railroad Company, with perpetual succession, and by that name and style shall be capable in law of taking, purchasing, holding, leasing, selling, and conveying real and personal estate and property, so far as the same may be necessary for the purposes hereinafter mentioned; and in their said corporate name to sue and be sued, to have a common seal, which they may alter or renew at pleasure; to have a capital stock of one million of dollars, to be divided into shares of one hundred dollars each, which said capital may be increased from time to time by a vote of a majority of the directors of the corporation, to the sum of six millions of dollars; *Provided, That sum be re-*

**Capital stock  
and shares.**



quisite to the completion and fulfillment of the objects and <sup>Proviso.</sup> purposes of the corporation hereby created, and the aforementioned persons shall be, and constitute the first board of directors, fifteen of whom shall constitute a quorum to transact business and may have and exercise all the powers, rights, privileges, and immunities, which are or may be necessary to carry into effect the purposes and objects of this act as hereinafter set forth.

Sec. 2. Said directors shall organize the board as soon as practicable after the passage of this act, and for that purpose shall meet in the town of Yankton, (at Ashe's Hotel) on the Second Tuesday in June, 1867, and proceed to organize by electing one of their number president, and by appointing a secretary and treasurer, which organization shall be certified by said directors, or a majority of them, and such certificate shall be recorded in the record book of said company, and said record shall be sufficient evidence of the facts therein stated, and said directors shall hold their offices until the first Monday of January, 1868, and until their successors shall be elected and qualified as hereinafter provided. All vacancies in said board may be filled by a vote of a majority of the directors present at any regular meeting of the board, or at a special meeting called for that purpose.

When to organize.

To hold office  
the first Monday  
Jan. 1868.  
Vacancies.

Sec. 3. The said company are hereby authorized and empowered to locate, and, from time to time, to alter, change, relocate, construct, reconstruct, and fully to finish, perfect, and maintain a railroad, with one or more tracks, commencing at or near a point where the United States Wagon road crosses the Big Sioux River in Union county, Dakota Territory, thence up the valley of the Missouri river to the town of Elk Point, thence to the town of Vermilion, by the most practicable route; thence to or within a half mile of the point where the township line dividing sections crosses the Dakota or James river; thence to the town of Yankton, thence [by] to the most practicable route to the town of Bon Homme, thence by the most practicable route to the Yankton Indian Agency, thence up the valley of the Missouri river to a point opposite Fort Randall, thence by the most practicable route to a point at or near the mouth of Pratt creek in Chas. Mix county, thence by the most practicable

Powers conferred.

Location of the road.

route to Fort Thompson, thence to the mouth of the Big Shyenne river by the most practicable route, and said company are further authorized to use and operate said railroad, and shall have power and authority to regulate the time and manner in which persons, goods and effects shall be transported on the same, and to prescribe the manner in which said railroad shall be used, and the rate of toll for the transportation of persons and property under their charge, and shall have power to provide all necessary stock and materials for the operation of said railroad, and shall have power to erect and maintain all necessary depots, stations, shops, and other buildings and machinery for the accommodation, management, and operation of said road.

**Subscriptions to capital stock.**

Sec. 4. Said directors shall, as soon after the passage of this act as practicable, open books for the purpose of receiving subscriptions to the capital stock of said company, at such places along the line of said road and elsewhere as said directors shall determine, under the direction of such agents as said directors shall appoint, and said books shall be kept open from time to time, until the amount of said capital stock shall be subscribed, or until said directors shall determine to close the same.

**Right of way.**

Sec. 5. Said company may at any time take voluntary relinquishments for the right of way for said road, the necessary depots, water stations, wood yards, and other buildings, and may receive, and are hereby authorized to receive any grant or grants of land which may hereafter be made by the Congress of the United States to this Territory, to encourage and aid in the building and equipment of this line of road, and such connections as may be provided by said Territory or future State, and if the land through which the road shall pass belongs to a minor, in whole or in part, the guardian of such minor shall have power to convey to said company, on fair and equitable terms; but every such conveyance by the guardian shall be subject to the approval of the court having probate jurisdiction, in the county in which said lands are situated.

**May take grant of lands.**

**Lands of a minor.**

Sec. 6. If any owner of a tract of land through which said road may pass, refuse to relinquish the right of way for said

road to said company, or if the owner be an infant, or person of unsound mind, or a non-resident of the territory, the facts of the case shall be clearly stated in writing to the judge of the district court of the county in which said land is situated, either in vacation or term time, and the judge shall appoint three disinterested citizens of the county, as commissioners, to view such lands, who shall take into consideration the value of the land and the advantages and disadvantages of the road to the same, and shall report, under oath, what damages shall be done to said land, or any improvement thereon, stating the amount of damages assessed, and shall return a plat of the land thus condemned. Written notice of such application to the judge shall be given to the owner of such land, five days before making such application, if such owner reside within the county where said land is situated. If such owner is a non-resident of said county, he may be served by actual notice or by publication for four weeks in some newspaper published nearest to said land; *Provided*, Such newspaper shall be a paper published within the territorial limits of the Territory of Dakota.

When owner of land refuses to relinquish right of way.

Proceedings in such cases.

Sec. 7. The persons to view and value such lands shall file their report in the office of the clerk of the district court of the county where such lands are situated, and if no valid objection be made to said report within ten days, the court shall enter judgment against said company for the amount of damages assessed, and shall make an order vesting in said company the fee simple title to the lands described in said plat and report, as given to the use of said road. Objections to such report must be filed within ten days from the time the same was filed, which objections may be examined by said judge in term time or vacation, and he may hear testimony, and by judgment confirm said report, or may set aside the same and appoint three other viewers, who shall proceed in the same manner and make their report, until the same be confirmed; in all such cases the court shall adjudge the costs of the proceedings according to the equity of the case, and the said court shall have power to make such orders, and take such other steps as will promote the ends of justice between the owner of said lands and said company.

Same.

When company  
may occupy land  
on filing bonds.

Sec. 8. In case of refusal of said right of way, by the owner of land, the said company may occupy the same for the purpose of constructing the said road, upon filing good and sufficient bonds conditioned to pay all damages that may be adjudged against them, with the judge of the district court of the county where the land is situated, and upon his approval of the same.

Company  
authorized to  
borrow money.

Sec. 9. The said company are authorized and empowered to borrow, from time to time, such sums of money, not exceeding at any one time double the amount of stock subscribed, and upon which not less than five per cent. shall have been paid in, as may be necessary for constructing, completing, and furnishing or operating said railroad, and to issue and dispose of their bonds in denominations of not less than one hundred dollars for any amount so borrowed, and to pay a rate of interest therefor not exceeding ten per cent. per annum, and to pledge and mortgage the said road and its appendages or any part thereof, or any other property or effects, rights, credits, or franchises of the said company as security for any loan of money and interest thereon, and to dispose of the bonds issued for said loan at such rates and on such terms as a majority of the directors may determine, and may make such bonds convertible into the capital stock of said company at the option of the holders.

May issue bonds  
and mortgage  
property.

Dividends.

Sec. 10. The said company may annually or semi-annually make such dividends among the stockholders as they may deem proper, said dividend to be declared out of the net profits, receipts, or income of said company, and after first having deducted from said net profits a reasonable amount to be set apart for a sinking fund for the ultimate liquidation of the indebtedness of said company. The rights, privileges, and immunities accruing to the following named aforementioned persons and their successors in office, by the provisions of this bill, are declared to be perpetual.

Charter perpetual.

Company may  
make by-laws.

Sec. 11. Said company have power to make, ordain, and establish all such by-laws, rules and regulations as may be deemed expedient and necessary to fulfill the purposes and carry into effect the provisions of this act, and for the well ordering

and securing the affairs and interests of said company; *Provided*, That the same be not repugnant to the constitution of the United States and the laws of this territory. This act, and all by-laws that may be adopted by the directors of said company, and all additions thereto and alterations thereof shall, from time to time, be printed in a convenient form, and be distributed among the stockholders of said company.

Charter & by-laws to be printed.

Sec. 12. The stock of said company shall be deemed personal estate, and shall be transferable in the manner and under such restrictions and conditions as may be provided by the by-laws of said company; *And it is hereby further provided* That twenty per cent. of the original capital stock of said company shall be denominated unassessable stock, which stock shall not be liable by any by-laws or rules and regulations of said company to be assessed for the construction, equipment, or management of said road, or in any manner taxed by said incorporation. The balance of said original stock, and all other stock created under the privileges of this charter by said company, shall be chargeable and liable to be assessed *pro rata* for the expense incurred in the construction and equipment of said road.

Stock and transfers of same.

Unassessable stock.

All other stock assessed.

Sec. 13. It shall be lawful for a majority of the persons named in this act, or their successors, by giving thirty days' notice, stating the objects, to call a meeting of the stockholders of said company, and the secretary of said company shall certify said call, and record the same, as well as all matters that may be transacted under said call, in a suitable book provided for such purpose.

Meetings of stockholders how called.

Sec. 14. Said company shall have power to unite its road, in whole or in part, with the transit railroad of Minnesota, or any other railroads either in this Territory or in the state of Minnesota, Wisconsin, Iowa, Illinois, Indiana, Michigan, Ohio, New York, or the Territory of Nebraska, and to grant to any such company or companies, the right to construct, operate, or use this line of road, and to lease its right of way and franchises, together with its equipments, rolling stock, furniture, and materials used in constructing or operating said road, and authorize such railroad company or companies to complete,

What roads company may unite with.

May consolidate  
with other roads

finish, use, and operate such line of roads so purchased or leased, upon such terms as may be mutually agreed between the said company or companies, or may consolidate the capital stock with the capital stock of any railroad company or companies with which it shall intersect, shall have power to place the road of said company, and its capital stock so consolidated, under the direction of a board of directors of not less than five persons, who shall be chosen from the stockholders of the company so consolidated, not less than two of which shall have been members and stockholders of the company so consolidated previous to its consolidation as aforesaid.

Notice to be  
given of all  
meetings,  
calls for install-  
ments on stock.

Sec. 15. Notice shall be published in at least one newspaper printed in the Territory, for the election of directors and calls for installments to be made upon the capital stock, and all meetings of stockholders; all matters intended for the action of stockholders, by the directors or stockholders authorized to call meetings, shall be published in the notice given for the meeting before which said matters will be brought.

Company to re-  
pair highways,  
&c. that they  
may have as far-  
ed.

Sec. 16. The said corporation shall be bound to repair all public highways or bridges which may be injured in constructing said road, and shall restore them, as far as practicable to as good condition as they were before they were injured.

What property  
may be taken in  
payment of  
subscriptions to  
stock.

Sec. 17. Said company are hereby authorized to take and receive from the several subscribers to said capital stock, money, labor, materials, and locomotives, or other articles adapted to the construction or operation of said railroad, or any property that in the opinion of the board of directors, may be exchanged or converted to such use, and, upon receiving full payment in manner aforesaid of such subscription of stock, may be issued to such subscriber or subscribers, certificates therefor.

Company  
allowed to com-  
mence road,  
and ten years to  
complete it to  
Bon Homme.

Sec. 18. The company shall be allowed five years from the passage of this act for the commencement of said road, and in case said road shall not be completed in ten years thereafter, to Bon Homme D. T., the privileges herein granted shall be forfeited.

This public act.

Sec. 19. This act shall be construed beneficially for all purposes herein specified or intended, and shall be deemed and taken as a public act.

Sec. 20. This act shall take effect and be in force from and after its passage. When not to take effect.

Approved, January 11th, 1867.

## SCHOOL TAX.

### CHAPTER VI.

#### AN ACT AUTHORIZING THE ASSESSING OF A TAX IN SCHOOL DISTRICT NO. 1. YANKTON COUNTY.

Section 1. County commissioners of Yankton county authorized to assess tax in school district No. one. Amount one thousand dollars. For what purpose.

2. Persons who have contributed to school house to be credited.
3. Building committee to furnish commissioners with list of contributions.
4. Tax to be levied on assessment roll of 1866.
5. When act to take effect.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

[Section 1.] The county commissioners of Yankton county are hereby directed to assess a tax in school district number one, Yankton county, comprising the limits of the town of Yankton, as surveyed in 1859, amounting to the sum of one thousand dollars in the aggregate; which money is to be used in completing the school house in said district and fencing the lots.

County commissioners of Yankton county authorized to assess tax in school district No. one Amount one thousand dollars. For what purpose.

Persons who have contributed to school house to be credited.

Sec. 2. Persons who have contributed to the school house fund shall have credit for the amount of their subscriptions (if paid.) Any person whose paid subscription does not amount to his assessed tax shall pay the difference between his paid subscription and assessed tax.

Building committee to furnish committee with list of contributors.

Sec. 3. The building committee shall furnish the county commissioners with a list of the paid up subscription to the school house fund.

Tax to be levied on assessment roll of 1866.

Sec. 4. This tax shall be levied on the assessment roll of 1866, and collected with the tax of the year.

When act to take effect.

Sec. 5. This act shall be in force after its passage and approval.

Approved, January 11th, 1867.

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## TAXES IN YANKTON COUNTY.

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### CHAPTER VII.

AN ACT DIRECTING THE COUNTY COMMISSIONERS OF YANKTON COUNTY TO RE-ADJUST THE ASSESSMENT ROLLS OF 1865 AND 1866, AND EQUALIZE THE TAXES LEVIED THEREON.

- Section. 1. Commissioners of Yankton county directed to re-adjust the assessment rolls of 1865-6.
2. Persons who have paid taxes to have credit,
  3. When amount paid is greater than re-adjusted tax.
  4. When amount paid is less than adjusted tax.
  5. Commissioners directed to attend to requirements of act forthwith.
  6. When to take effect.



*Be it enacted by the Legislative Assembly of the Territory  
of Dakota:*

Section 1. That the county commissioners of Yankton county, are hereby directed to re-adjust the assessment rolls of 1865 and 1866, and equalize the taxes levied thereon.

Commissioners  
of Yankton  
county directed  
to re adjust  
assessment rolls  
of 1865-6

Sec. 2. The county commissioners are further directed to give credit to any and all persons who have paid taxes on the said assessment rolls of 1865 and 1866, for the amount of taxes paid.

Persons who  
have paid taxes  
to have credit.

Sec. 3. Should the amount which has been paid by any person be greater than the re-adjusted tax levied against such person, the county commissioners shall issue a county warrant in favor of said person, equal in amount, to the difference between what said person has paid, and his re-adjusted tax.

When amount  
paid is greater  
than re-adjusted  
tax.

Sec. 4. Should the amount which has been paid by any person be less than his or her re-adjusted tax, said person shall have credit for the amount so paid, but the remainder of the tax shall be collected the same as though no portion of said tax had been paid.

When amount  
paid is less than  
adjusted tax

Sec. 5. The county commissioners are hereby directed to forthwith attend to the requirements of this act.

Commissioners  
to attend require-  
ments of act  
forthwith.

Sec. 6. This act shall take effect from and after its passage and approval.

When act to  
take effect.

Approved, January 9th, 1867.

# PETITION, MEMORIALS AND RESOLUTIONS

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## A. J. FAULK.

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### CHAPTER VIII.

JOINT RESOLUTION REQUESTING THE CONFIRMATION BY THE SENATE OF THE UNITED STATES, OF THE APPOINTMENT OF A. J. FAULK, AS GOVERNOR OF DAKOTA TERRITORY.

*To the HON. BENJ. F. WADE, Chairman Committee of Territorial affairs United States Senate.*

Asking the confirmation of A. J. Faulk as Governor of Dakota territory

WHEREAS, The Hon. A. J. Faulk, has been appointed, by the President of the United States, to the position of Governor of Dakota Territory; be it therefore,

*Resolved by the Legislative Assembly of the Territory of Dakota :*

That the appointment of Hon. A. J. Faulk, as Governor of this Territory, meets with the cordial approval of the members of this Legislative Assembly, and as we truly believe, of the people whom we have the honor to represent; that in him we believe Dakota has a warm friend, and one whose energies will be devoted in that direction most beneficial to our general interests; able, intelligent and impartial, and every way calculated not only to adorn the responsible position to which he has been called, but eminently adapted, by his many excellent qualities, to be of substantial service to us in building up and aiding in the development and settlement of our Territory.

We therefore respectfully petition you, and through you the honorable body of which you are a member, to confirm the appointment of A. J. Faulk, as Governor, believing you will thereby confer a merited compliment upon a worthy citizen, and give to Dakota an able, conscientious and enterprising Executive.

And your memorialists, as in duty bound, will ever pray.

## BLACK HILLS.

### CHAPTER IX.

#### A MEMORIAL TO CONGRESS RELATIVE TO A GEOLOGICAL SURVEY OF THE BLACK HILLS COUNTRY.

*To the honorable the Senate and House of Representatives of the United States in Congress assembled.*

Your memorialists the Legislative Assembly of the Territory of Dakota, most respectfully beg leave to again petition your honorable bodies to grant a sufficient appropriation of money to institute and carry out a complete and thorough geological survey of the Black Hills country, in Dakota Territory; and your memorialists are led to thus again call your attention to this matter, for the following reasons:

*Relative to the geological survey of the Black Hills.*

1st. By an Act of Congress, approved March 2d, 1865, the sum of \$20,000 was appropriated for the purpose of opening and establishing a Government Wagon road up the Great Sheyenne Valley, and through the Black Hills, to connect with the Virginia City road near Powder river; and,

WHEREAS, the commissioner appointed to open said road was unable to prosecute his labors in the field beyond the forks

Relative to the  
geological sur-  
vey of the Black  
Hills.

of the Sheyenne river, on account of the hostile attitude of the Indians in the Black Hills, in the summer of 1865; and,

WHEREAS, By request of the Northwestern Indian Commissioners in 1866, the further work on said road was suspended until treaties could be consummated with the Indian tribes along said line; and,

WHEREAS, The proposed treaties have now been made by which the said tribes cede the right of way through their country to the Mountains, but still dispute with the United States, the right of possession to the Black Hills; which are known to be rich in gold, silver, iron, coal and pine forests, thereby shutting out to immigration and settlement, one of the finest agricultural and mineral regions of our Territory; and,

WHEREAS, The preliminary explorations of Lieut. Warren and Dr. Hayden in that region, furnish conclusive evidence of the existence of gold, and the precious metals in the Black Hills, within one hundred and thirty miles of the steamboat navigation of the Missouri river; and,

WHEREAS, It is believed that coal and iron will be found in vast quantities at the eastern base of said Hills, on the head waters of the Sheyenne river, whenever a thorough exploration shall be permitted by the Indians, or enforced by the government; and,

WHEREAS, It is the opinion of your memorialists that the government would reap a four fold reward in return for an appropriation to complete an early and thorough exploration of said Black Hills under protection of an ample military escort; and,

WHEREAS, There yet remains, of the \$20,000 appropriated, for the opening of the Sheyenne road, the sum of \$14,000, unexpended balance yet to be applied to the opening of said road through the disputed minerals fields of the Black Hills; and,

WHEREAS, Dr. J. V. Hayden, of the Smithsonian Institute, has devoted several years to scientific research in that region, and is a hearty co-operator and zealous advocate of the material interests, and natural resources of the Northwest; therefore,

Your memorialists would most respectfully pray, that a sufficient appropriation be made by your honorable body in addition to the unexpended balance of the Shesenne Wagon Road appropriation, to enable a thorough scientific exploration to be made by Dr. Hayden, during the present season in connection with the opening of said road, under sufficient military force, to take undisputed possession of the Black Hills, and establish a permanent military post therein.

And your memorialists as in duty bound will ever pray.

Approved, January 9th, 1867.

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## CAPITOL BUILDING.

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### CHAPTER X.

A MEMORIAL TO CONGRESS ASKING AN APPROPRIATION TO ERECT A CAPITOL BUILDING AT THE SEAT OF GOVERNMENT IN DAKOTA TERRITORY.

*To the Honorable the Senate and House of Representatives of the United States in Congress Assembled:*

Your memorialists the legislative assembly of the Territory of Dakota, would respectfully represent, that while Congress has uniformly made appropriations for the erection of capitol buildings in the several territories of the United States, the Territory of Dakota has received no aid from the general government for such a purpose, and deeming the matter of sufficient importance to demand your attention, (the general government as well as the Territory of Dakota being interested therein) we respectfully ask that this subject be considered by your honorable bodies.

Asking an appropriation to erect a capitol building.

Asking an appropriation to erect a capitol building.

Your memorialists would represent that the buildings at present occupied by the several federal officers, and in which the sessions of the legislative assembly are annually held, are illy suited for such purposes; being uncomfortable during the season in which, by law, the legislature holds its sessions, and the several officers are compelled to be constantly at their places of business; and we would further represent, that the rents annually paid for the present buildings used and occupied, for which the general government is responsible, would, in a few years, pay the expense of erecting a suitable building for the accommodation of the various federal officers and the legislative assembly. .

Your memorialists would further represent, that as at present situated the valuable papers, records, documents, &c., are without a secure place wherein they can be safe from destruction by fire, or from theft, and we regard their preservation of vital consequence to our Territory. Your memorialists regard this matter of paramount importance to Dakota, and would therefore pray that you will appropriate forty thousand dollars for the erection of a capitol building at the seat of government in Dakota Territory.

And your memorialists, as in duty bound, will ever pray.

*Be it resolved by the Legislative Assembly of the Territory of Dakota,* That a copy of this memorial be forwarded to the Speaker of the House of Representatives and President of the Senate, of the United States Congress, and one copy to our Delegate in Congress; *And further,* That his Excellency, the Governor, be requested to sign this memorial and to unite with us in urging and securing a favorable response to this memorial.

Approved, January 10, 1867.

# CODIFICATION OF LAWS.

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## CHAPTER XI.

A MEMORIAL TO CONGRESS, ASKING THAT THE SECRETARY OF THE TERRITORY BE AUTHORIZED TO USE WHAT HAS BEEN SAVED OUT OF APPROPRIATIONS, MADE FOR LEGISLATIVE EXPENSES OF THE TERRITORY OF DAKOTA, FOR THE PURPOSE OF CODIFYING THE LAWS.

Your memorialists, the legislative assembly of the territory of Dakota, would respectfully represent that the laws of Dakota, enacted from time to time, need revision and codification, and for this purpose, would recommend and pray that the secretary of the territory be authorized to use the money already appropriated for legislative expenses of the territory of Dakota, which may have been saved, and the money which may be saved out of such appropriation for the next fiscal year, for the purpose of paying the codification, *Provided*, That not more than ten thousand dollars shall be expended for this purpose.

Asking that certain funds be diverted to codify laws.

*Resolved*, That our delegate in congress be respectfully requested to bring the foregoing to the immediate attention of congress, and use all honorable means to secure the object of this memorial.

Approved, Dec. 13th, 1866.

## FORT JAMES.

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### CHAPTER XII.

#### A MEMORIAL TO MAJOR GENERAL TERRY, ASKING FOR A RE-OCCUPANCY OF FORT JAMES IN DAKOTA TERRI- TORY.

*To Major General A. H. Terry, Commanding Department  
of Upper Missouri.*

*Asking for the  
re-occ. of  
Fort James.*

Your memorialists the legislative assembly of the Territory of Dakota, would most respectfully represent, that Fort James on the Dakota river in said territory has been abandoned.

Your memorialists state that this fort has sufficient quarters, barracks and buildings to accommodate one company of soldiers, that the government now has at this point 125 tons of hay in stack. Hard wood can be furnished at this post at a less price than the contract prices for cottonwood at Fort Randall.

In our opinion, this post is of more practical utility for the defence of the inhabitants of Dakota than any other military post on the Northwestern frontier.

Your memorialists further state, that this post furnishes the only obstacle to the approach of hostile Indians to the capital of the territory by the route of the Dakota river.

Your memorialists further state that the temper of the Indians in the northwest appears to demand that Fort James, in Dakota Territory, should be occupied by federal troops as speedily as practicable.

And your memorialists as in duty bound will ever pray.



# FORT RANDALL RESERVATION.

## CHAPTER XIII.

**A MEMORIAL TO THE SECRETARY OF WAR, REQUESTING THAT THE MILITARY RESERVATION OF FORT RANDALL, D. T., ON THE NORTH SIDE OF THE MISSOURI RIVER BE REDUCED.**

*To the Hon. Secretary of War :*

Your memorialists, the legislative assembly of the territory of Dakota, would most respectfully represent that it is important to the interest of this territory that the military reservation of Fort Randall, on the north side of the Missouri river, be reduced.

*Asking that the Fort Randall reservation be reduced.*

This reservation was surveyed, in part, in 1860, by Lieut. J. C. Clark, 4th artillery. The portion surveyed is included within black lines on the accompanying map. That portion in red lines, marked, M. L. A. Z., has never been surveyed by the military authorities.

Upon this portion of the military reserve, a number of citizens settled, as far back as 1858, three years before such reservation was made.

They have built houses, opened farms, cultivated the soil, and entered largely into the raising of stock. By their energy and industry, they have built up flourishing settlements, and opened up avenues to material wealth and prosperity.

Under the act, approved August 4th, 1854, the right of pre-emption was extended over the unsurveyed lands of Minnesota. This tract was a part of the territory of Minnesota, to which this act applies, and the citizens who have settled upon and improved it, did so before the military reservation was made. The extension of this reserve, so as to include their farms and

Asking that the  
Fort Randall  
reservation be  
reduced.

improvements, subjects them, at any moment, to be removed from them by the military authorities, and thus works a hardship upon them.

The reserve as now established, is a very large one, much larger, indeed, than is deemed essential to the wants of Fort Randall, and might be reduced to smaller proportions, with much justice to those who, in good faith, are in occupancy of the particular portion asked to be restored in this memorial.

Your memorialists would further represent, that this tract lies in Chas. Mix county, and embraces lands necessary to its well being and growth, without which her prosperity is crippled.

For these reasons, and others, of a kindred character, which might be mentioned, your memorialists ask that the portion of the reserve above named, together with the islands in the Missouri, some of which are occupied, be excluded from the military reserve of Fort Randall and restored to public market.

*Be it Resolved*, That our delegate in congress, Walter A. Burleigh, be requested to lay this memorial before the honorable secretary of War, and urge him to grant the requirement herein made.

And your memorialists as in duty bound will ever pray.

Approved, January 11th, 1867.

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GEORGE STICKNEY.

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#### CHAPTER XIV.

A MEMORIAL TO SAMUEL C. POMEROY CHAIRMAN OF COMMITTEE ON PUBLIC LANDS RELATIVE TO GEO. STICKNEY.

*To the Honorable Samuel C. Pomeroy, Chairman of the Committee on Public Lands of the United States Senate.*

WHEREAS, The appointment of receiver of the local land office has been conferred by the President of the United States upon Hon. Geo. Stickney, of Union county, in this territory, and,

Asking the confirmation of George Stickney

WHEREAS, Said Stickney was appointed to fill a vacancy made by the appointment of John W. Boyle, late receiver in said land office, to the office of associate justice of supreme court of Dakota Territory, be it therefore

*Resolved by the Legislative Assembly of the Territory of Dakota,* That the appointment of Hon. Geo. W. Stickney to the position aforesaid, meets with the hearty concurrence of the members of this legislative assembly and the people at large throughout the territory; that a long residence, extending back seven years, within Dakota has given him opportunities of becoming acquainted with the character of our public domain, which in the capacity of surveyor he has largely improved; that many years experience in the practice of the legal profession render him peculiarly fitted to discharge intelligently and with facility the duties of the office to which he has been appointed, and that in that capacity, as in every other of a public nature which he has filled in the territory, he enjoys the reputation of performing his duties with ability, fidelity to his trust, and with commendable impartiality.

In Mr. Stickney, we are quite confident the general government has a faithful and competent officer, and the interests of the pioneer settler an honest and reliable friend. We therefore respectfully request that this appointment to the position of receiver as aforesaid, may be confirmed by the Senate, thereby deservedly rewarding a good citizen and securing to the government and people in a responsible position, a trustworthy servant.

And your memorialists as in duty bound will ever pray.

*Resolved,* That a copy of the above memorial be forwarded to our Delegate in Congress, the Hon. Walter A. Burleigh.

Approved, December 18th, 1866.

## HISTORY OF DAKOTA.

## CHAPTER XV.

## A JOINT RESOLUTION RELATIVE TO THE HISTORY OF DAKOTA TERRITORY.

Asking Secretary of Territory to purchase history of Territory

WHEREAS, a correct knowledge of the history and geography of this territory is very important for a legislature to legislate intelligently,

AND, WHEREAS, M K, Armstrong has recently published a very correct and reliable history and map of Dakota territory, which can be procured at the moderate cost of fifty cents per copy. Therefore,

*Be it Resolved by the Legislative Assembly of the Territory of Dakota:* That the secretary of the territory be requested to furnish hereafter to each member of the legislative assembly, one copy of the revised history of Dakota, as an additional item of stationary, annually furnished to the two houses of the legislature.

*Resolved,* That the secretary of the territory be further requested to furnish each member of the present legislative assembly with a copy of the above named history and map of the territory.

Approved, January 11th, 1867.

# PROTECTION FROM INDIANS.

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## CHAPTER XVI.

**A MEMORIAL TO THE HONORABLE THE SECRETARY OF WAR, ASKING FURTHER PROTECTION FROM INDIAN INVASIONS ON OUR SETTLEMENTS AND MILITARY POSTS IN DAKOTA TERRITORY.**

*To the Hon. Secretary of War of the United States:*

Your memorialists the legislative assembly of the Territory of Dakota beg leave most respectfully to represent, that well authenticated reports have reached the capital of said territory, that on or about the 21st of December, 1866, a command of about ninety United States troops stationed at Fort Phil Kearney in said territory, were attacked by a large body of Indians, about five miles from said Fort, and the entire command massacred.

Praying for  
protection from  
Indians.

And your memorialists would further represent, that but a few days previous to the report of said massacre, Major Lyman, a gentleman of intelligence who has been acquainted as a trader and otherwise with the Sioux Indians of the upper Missouri for several years, reports them in a hostile attitude towards the whites in the border settlements of said territory; that on the 3d of January inst., a gentleman arrived at this place with information that some one hundred and sixty of the Santee Sioux Indians were in two bands on the Big Sioux, but could not learn the cause of their being in that vicinity, as they were within some thirty or forty miles of the military post at the Big Sioux Falls known as Fort Dakota.

Your memorialists would further represent, that it is the opinion of those best acquainted with the Indians of the upper Missouri, that they are assuming a more hostile attitude towards the settlers in said territory than has been manifested for the past two or three years, and are now only awaiting for the

coming spring weather, to repeat in Dakota their murderous massacres at New Ulm, in Minnesota.

Your memorialists would therefore ask, that a sufficient number of troops be added to those now in said territory to meet any emergency of the kind anticipated.

Your memorialists would ask that for the safety of the capital of said territory, that there may again be one or more companies of soldiers stationed at Fort James, on the Dakota river, as this is near the hostile war path of the Sioux Indians, and would afford the settlements of the Missouri valley great protection.

And your memorialists as in duty bound will ever pray.

Approved, January 10th, 1867.

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## INDIANS.

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### CHAPTER XVII.

#### A MEMORIAL TO GENERAL U. S. GRANT, RELATIVE TO INDIAN MATTERS IN THE NORTHWEST.

*To General U. S. Grant:*

*To General  
Grant for mili-  
tary protection.*

Your memorialists, the legislative assembly of the Territory of Dakota, would respectfully represent, that entertaining serious apprehensions of a general outbreak among the hostile Indians of the northwest, especially those located in and adjacent to the valley of the upper Missouri, during the coming season, we deem it highly important and essential to the welfare and security of the pioneer settlements in this territory, that a much larger force of troops be forthwith sent to guard and protect our borders from their threatened invasion and depredations. In support of our claim for additional military

protection we cite you to the following statement, made to us by Mr. George Hoosick, a man in whom we have the fullest confidence, and who has just returned from an extensive trip to the Forts of the upper Missouri, having been as far as Fort Rice, a post situated in the heart of the country occupied by the hostile tribes. Mr. Hoosick reached Fort Rice about the first of December, and found the occupants of that post in a state of unusual anxiety caused by the intelligence but recently received there that a large train of carts, supposed to be from the vicinity of the Red river of the North, under the charge of a party of traders, had arrived within forty miles of that post. Said carts were laded with guns, powder and ball to a large extent, and other articles of traffic. That the said traders were exchanging their arms and ammunition with the Indians who occupy a hostile attitude towards the whites, taking in return robes and furs with which the savages were well supplied. Powder by the keg was being thus exchanged, and a very extensive trade had been carried on. The evils resulting from this illicit traffic have a wider influence towards strengthening our enemies than a superficial glance would indicate. In addition to supplying the materials for active warfare to our implacable enemies, it tends directly to largely increase their numbers. The friendly Indians, who inhabit the vicinity of our military posts, seeking by every means to evince their loyalty to the whites, receiving but a precarious subsistence through the charity of our military commanders, for their devotion and friendship to our government, view with envy the good fortune of their hostile brother, and contrasting their own sufferings and scanty livelihood with the apparent joy and plenty which mark the career of our enemies, soon become alienated, and goaded by the sting of ingratitude, desert us for the standard of our foes. That such is the case, we have hundreds of examples.

To General  
Grant for  
military  
protection.

Your memorialists would further represent, that the treaties of amity effected between the government and these tribes of Indians, through the agency of the commission who recently visited their country, are of no value towards preserving peaceful relations between the Indians and the whites who occupy this portion of the public domain. Councils which have been

To prevent injuries to the settlements.

recently held with the upper river tribes, reveals the fact that great dissatisfaction prevails among the bands treated with, on account of bad faith shown in breaking the promises which were made in behalf of the government by the said commissioners, the consequence of which is to weaken their devotion to their great father.

Your memorialists would further represent, that the present warlike attitude of the Indians, tending as it does to disturb our communities in their industrial pursuits, calls for the most complete vigilance on the part of our military arm, to prevent lasting and weighty injuries from being entailed upon our feeble settlements. The post known as Fort James, located on the James river, in this territory, which was evacuated last fall, would be of incalculable value in dispelling the apprehensions which now exist, if immediately occupied by a sufficient force of troops. It is a very important point, its situation being within the scope of country necessarily traversed by the warlike bands who seek to invade and desolate the settlements.

With confidence in your willingness to afford us security for our lives and property, we earnestly request that you give this memorial your early and favorable consideration.

And your memorialists, as in duty bound will ever pray.

Approved, January 11th, 1867.

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## REMOVAL OF INDIANS.

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### CHAPTER XVIII.

A MEMORIAL TO THE PRESIDENT OF THE UNITED STATES,  
RELATIVE TO THE REMOVAL OF THE Santee Band of  
SIOUX INDIANS.



*To the President :*

Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully represent, that the Santee band of Sioux Indians have been removed from their reservation at Crow Creek, to a point in the Territory of Nebraska, on the Missouri river, opposite the farms and homes of the peaceable citizens of Dakota.

*Praying for the removal of the Santee Indians.*

Your memorialists would further represent, that these Indians belong to the same band, and are the same persons who committed the terrible and bloody massacres in the State of Minnesota, in the year 1862, and that over three hundred who participated in these murders and damnable outrages, on the peaceable citizens of Minnesota, were tried, convicted and sentenced, but a feeling of false philanthropy, prevented their execution, and after enduring a short period of imprisonment, they are being placed in close proximity to our quiet settlements; threatening direct vengeance on our citizens for their imprisonment.

Your memorialists would further represent, that placing the Indians (with the history of their late atrocities fresh in the minds of all our citizens,) in the immediate vicinity of the settlements of our Territory, has and is very much alarming our citizens, for the safety of their families and property. Added to this, the rumor of a coalition of twelve tribes, who number some seventy thousand warriors, for a general warfare against the settlers of Dakota and Montana, and some idea may be formed of the fear prevailing among those of our settlers who are compelled to live in close proximity to these Hell Hounds of Minnesota notoriety.

Your memorialists would further represent that these Indians are being so located that in a single night, every settler between Yankton, the Capitol of Dakota, and Fort Randall, a distance of some eighty miles, might be massacred by these cold blooded fiends without a particle of hope of relief from any source whatever.

Your memorialists would further represent, that economy on the part of the Government require that they should be settled on other lands. A portion of the lands on which these In-

praying for the  
removal of the  
Santee Indians.

dians are now being settled, is laid out in town lots, valuable improvements have been made on a portion of said lots. Many of the parties owning these said lots are in different portions of the country, which will render it quite impossible for the Government to acquire title, without a larger expenditure of money than the benefits accruing therefrom will justify.

Your memorialists would further represent, that other lands equally adapted in climate, timber, water and soil capable of producing all the cereals and vegetables grown in the northwest, lying on the east side of the Missouri river and north of Fort Randall, are owned by the Government, and from Fort Randall to American creek there are no better agricultural lands in northern Nebraska or Iowa. The location of these Indians on these lands would be attended with very little expense, and when so located there would intervene between them and the settlements the Yankton Sioux Indians, whose known friendship for the whites is felt and recognized along our entire frontier. Forts Randall, James and Dakota, also intervening, would, if kept properly garrisoned, effectually protect our frontier settlement and be able to prevent these Indians from making any predatory incursions, they may be disposed to make.

And your memorialists as in duty bound will ever pray.

*Resolved by the Legislative Assembly of the Territory of Dakota:*

That a copy of this memorial be presented to the Governor for his signature, and that duly authenticated copies be forwarded to the President of the United States, to the Secretary of the Interior, and to our Delegate in Congress.

Approved, January 10th, 1867.

## SURVEY OF WHITE RIVER.

### CHAPTER XIX.

A MEMORIAL TO THE COMMISSIONER OF THE GENERAL LAND OFFICE PRAYING FOR THE EXTENSION OF THE PUBLIC LAND SURVEYS OUT THE WHITE RIVER VALLEY TO THE PINE LANDS OF THE BLACK HILLS.

*To the Honorable the Commissioner of the General Land Office :*

Your memorialists, the legislative assembly of the Territory of Dakota, most respectfully represent, that the parallel of forty-three degrees and thirty minutes north latitude, has already been extended through this territory from the N. W. corner of the State of Iowa, to the Missouri river, and a base line of public surveys has been established along said parallel terminating below the mouth of White river, which stream rises near the pine regions of the Black Hills, and flows eastward through a fertile and well wooded agricultural valley, for a distance of over one hundred miles, to its confluence with the Missouri river.

praying for the  
survey of the  
Whiteriver  
country.

Your memorialists would further represent, that the township lines of the public surveys, have, within the last year been extended along the eastern slope of the Missouri valley, to the intersection of said parallel of  $43^{\circ} 30'$  north latitude with the Missouri river, south of the mouth of White river; and that said base line and township boundaries could be continued westward up the White river valley to the pine lands of the Black Hills, at the usual cost allowed per mile for surveys in the western territories, thereby opening to settlement, not only the fine agricultural valley of White river, but would lead the way to a speedy possession of the vast pine forest and mineral

Praying for the  
survey of the  
White river  
country.

lands of the Black Hills, by armed bands of immigrants and miners.

Your memorialists would further represent, that the lineal distance of said survey from the Missouri river to the Black Hills, would not exceed one hundred and fifty miles, and that seven hundred and fifty miles of township and subdivisional lines, would sectionize the most desirable and valuable locations along said White river valley and among the forests of the Black Hills, by the settlement and sale of which lands the government would soon receive a four fold reward for the expenditure of said public survey.

Your memorialists would further represent, that by a treaty with the Sioux bands of Indians west of the Missouri river, ratified March 5th, 1866, the said Indians relinquished the right of way through said country, and are about to locate at the mouth of White river; and that a treaty of cession could easily be effected between the government and the said Indians; therefore,

Your memorialists, while fully aware that it is not the policy of the government to prosecute its public surveys in advance of the Indian title, we are also reminded that many of our western territories have grown up and become wealthy and populous on Indian lands, and that treaties of cession and the public surveys follow too slowly in the footsteps of the hardy pioneer.

Your memorialists, therefore, most earnestly pray that you will at an early day, recommend to Congress, the necessity and importance of an immediate purchase and survey of the White river valley and the Black Hills pineries, and the establishment of a western land district in this territory.

And your memorialists as in duty bound will ever pray.

Approved, January 11, 1867.

## MAIL SERVICE.

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### CHAPTER XX.

A MEMORIAL TO THE HON. ALEXANDER RANDALL, POST MASTER GENERAL, U. S., PRAYING THAT THE MAIL SERVICE ON ROUTE NO. 13801 FROM SIOUX CITY, IOWA, TO FORT RANDALL, DAKOTA TERRITORY, BE INCREASED.

*Sir:*

Your memorialists, the legislative assembly of Dakota Territory, would most respectfully represent, that an increase of mail service on route No. 13801 from Sioux city, Iowa, to Fort Randall, Dakota Territory, is necessary for the public good; that the said route runs along the north bank of the Missouri river one hundred and forty miles through a country well settled, and passes through the seat of government of the territory and several other thriving towns; also, that all the military posts and Indian agencies on the upper Missouri river receive their mail via this route and that an increase of service would do much to expedite government business with the different departments. Your memorialists would therefore request that service be increased to six times per week.

Praying for an increase of mail service.

And as in duty bound, your memorialists, will ever pray.

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## MILITARY POSTS.

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### CHAPTER XXI.

A MEMORIAL TO THE SECRETARY OF WAR, PRAYING FOR THE ERECTION OF A MILITARY POST AT THE NORTH BASE OF THE BLACK HILLS.

*To the Hon. E. M. Stanton, Secretary of War:*

Praying the establishment of a military post in the vicinity of the Black Hills.

Your memorialists the legislative assembly of the territory of Dakota, would most respectfully represent, that the wants and wishes of the people of this territory and the traveling public on the road to Montana and Idaho would be promoted by the establishment of a military post at some suitable point on the north fork of the Sheyenne river, near the northern or western base of the Black Hills. The establishment of such a post at some point in the region above pointed out, would serve the double purpose of protecting emigrants to the mines and giving a feeling of security to the people of the territories of Dakota and Montana.

It is a well known fact that the Sioux Indians being in that country are a wild, turbulent and hostile people, who are now threatening the peace of the western borders of our territory, and the effect of such post will be to overawe and restrain these people.

In addition to these facts, your memorialists would invite your attention to the fact, that the transportation of the government supplies to the military post on the western border of this territory, and in Montana, can be more readily and economically done than by the route now used.

The Missouri furnishes fine water transportation, to the mouth of the Sheyenne river, and the overland route by the way of the north fork of that river to the military post above referred to, will be shortened over five hundred miles and the cost of transportation greatly cheapened.

Your memorialists would further represent, that the region of the Black Hills abound in pine and minerals and the people of the territory earnestly desire protection while engaged in these avocations, and this can be best done by the establishment of the military post prayed for in this memorial, and your memorialists will as in duty bound ever pray.

*Resolved*, That a copy of this memorial be forwarded to Lieut. General Sherman, and to our delegate in congress, who is earnestly requested to urge the importance of the prayer of this legislature upon the Secretary of War;

That this memorial be presented to the Governor for his approval.

Approved, Jan. 11th, 1867.

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## MILITARY ROAD.

## CHAPTER XXII.

A MEMORIAL TO CONGRESS PRAYING FOR THE ESTABLISHMENT OF A MILITARY ROAD FROM ELK POINT TO SIOUX FALLS IN DAKOTA TERRITORY.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled :*

Your memorialists the legislative assembly of the Territory of Dakota, would most respectfully represent, that Fort Dakota, a military post established at Sioux Falls, in the county of Minnehaha, and now garrisoned with troops, is situated about sixty miles north of Elk Point, the county seat of Union county, on the Missouri river at which point the military road leading to Fort Randall, passes.

Praying for a military road from Elk Point to Sioux Falls

Your memorialists would further represent, that all the supplies for the garrison are transported by teams from the Missouri river, starting from Sioux city, and carried by the way of Elk Point above named, as that is the nearest point to said military post where supplies can be obtained.

And your memorialists further represent, that to facilitate and cheapen the transportation to said post, a road should be laid out and established from Elk Point up the Big Sioux river valley to Fort Dakota, passing in a direct line through a section of country that will soon be settled with a class of pioneers who in a few years will relieve the government of the expense of a garrison at that point.

Your memorialists would further represent, that upon this proposed route there are but two prominent streams to be bridged, a few smaller ones also to be bridged and some small

sloughs to be graded. These improvements will require a small appropriation, and your memorialists most respectfully ask that your honorable bodies will grant a sum of ten thousand dollars for the purposes represented in this petition.

And your memorialists will ever pray.

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## PENITENTIARY.

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### CHAPTER XXIII.

A MEMORIAL TO CONGRESS PRAYING FOR AN APPROPRIATION TO ERECT A PENITENTIARY IN DAKOTA TERRITORY.

*To the Honorable the Senate and House of Representatives of the United States in Congress Assembled:*

Praying for an appropriation to erect a Penitentiary at Bon Homme.

Your memorialists, the legislative assembly of the Territory of Dakota, would most respectfully represent, that the first legislative assembly convened after the organization of said territory by an act thereof, designated Bon Homme as a place where the territorial penitentiary should be erected.

And your memorialists would further represent, that succeeding legislative assemblies have enacted wholesome laws for the good government and well being of the people of said territory, many of which are inoperative for the want of a jail or penitentiary, whereby such penalties as may by law be adjudged, may be inflicted.

Your memorialists would further represent, that the settled portion, or that which is most rapidly filling up, is that bordering the Missouri river, which is becoming a thoroughfare for the travel to and from the gold regions of Montana and Idaho,



on which route numerous instances of murder and robbery have already occurred, and in order to prevent the formation of vigilance committees (as has been done in all of the mineral region bordering the Pacific) it is absolutely necessary we should be provided with a prison, that through our courts evil doers should be punished according to law instead of mob violence.

Your memorialists would therefore pray your honorable body, that an appropriation be made of twenty thousand dollars or such sum as you in your wisdom may deem necessary for the erection of a territorial jail or penitentiary at the town of Bon Homme, in Bon Homme county, Dakota Territory.

And your memorialists as in duty bound will ever pray.

*Ordered*, That a copy of this memorial be forwarded to the President of the Senate and Speaker of the House of Representatives; also, a copy to Hon. W. A. Burleigh, our Delegate in Congress.

Approved, January 11th, 1867.

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## PUBLIC LANDS.

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### CHAPTER XXIV.

#### A PETITION TO THE COMMISSIONER OF THE GENERAL LAND OFFICE.

*To the Honorable the Commissioner of the General Land Office:*

Your memorialists the Legislative Assembly of the Territory of Dakota, would respectfully say that in their judgment a more rigid observance of our land system should be observed, the more especially in reference to the homestead law.

Respecting the  
homestead law.

The fact exists that the most desirable lands in Dakota Territory are held by persons who have not complied with the requirements of this most beneficent law. Technically, in the first instance perhaps they have, with the object, purpose and design of evading its provisions for speculative purposes.

The law requires an honest *bona fide* intention to actually reside on the homestead for five years.

Yet the fact is that parties claiming the benefits of this law, do not continue to reside in good faith on the lands, but instead thereof hold it for sale.

Your memorialists deferentially suggest that some rules be adopted directory to the Register and Receiver of the Local Land Office at Vermillion, in this Territory, whereby such officers may declare land thus held vacant, and subject to entry.

Approved, January 11th, 1867.

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## WAGON ROAD—GRADING.

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### CHAPTER XXV.

A MEMORIAL TO THE SECRETARY OF THE INTERIOR ASKING THAT THE SURPLUS FUNDS OF THE APPROPRIATION FOR LOCATING A WAGON ROAD FROM THE MINNESOTA LINE, TO THE MISSOURI, BE APPLIED TO GRADING AND BRIDGING THE ROAD FROM SIOUX FALLS TO YANKTON.

*To the Honorable Secretary of the Interior :*

Asking that certain funds be applied to grading and bridging the road to Sioux Falls.

Your memorialists, the legislative assembly of the Territory of Dakota, would respectfully represent;

1st. By an act of Congress approved March 3d, 1865, the sum of \$10,000 was appropriated to lay out and construct a

wagon road from the Minnesota State line to the Missouri river ;

Asking that certain funds be applied to grading and bridging the road to Sioux Falls.

2d. W. W. Brookings was appointed by the Secretary of the Interior, as commissioner to superintend the laying out and construction of said road, and by the official report of said Brookings, dated October 31st, 1865, it appears that said road has been located from the State line along the 43d parallel of north latitude to a point on the Missouri river near Crow creek agency, at a cost to the government of about \$7,000, leaving an unexpended balance of said appropriation to the amount of \$3,000.

Therefore, your memorialists would most respectfully petition, that said surplus of the said appropriation be applied to improving and bridging the main traveled road from Sioux Falls to Yankton, by way of the upper James river ferry.

And your memorialists would further represent, that there is now established at said Sioux Falls a permanent military post midway between the settlements of Minnesota and Dakota, and travel and transportation, both by citizens and soldiers, are already beginning to find their way along said route, inasmuch as the same is to become an established mail route between southern Minnesota and Dakota ; and as it is the belief of your memorialists that said unexpended balance of \$3,000 would render said road passable in all seasons of the year ; therefore,

Your memorialists would earnestly request that you bestow upon this matter your early and favorable attention.

And your memorialis will ever pray.

*Resolved*, That a duly authenticated copy of this memorial be forwarded to our Delegate in Congress, Hon. W. A. Burleigh.

## WAGON ROAD.

## CHAPTER XXVI.

MEMORIAL TO THE HON. SECRETARY OF THE INTERIOR  
PRAYING THAT THE LOCATION OF THE SIOUX CITY AND  
FORT RANDALL WAGON ROAD BE CHANGED.

Praying for a  
change in the  
location of the  
Sioux City and  
Fort Randall  
wagon road.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully call your attention to the necessity of changing the location of the Sioux City and Fort Randall Military Wagon Road, so that the said road will cross the Dakota river at or near the point known as Greenway's Ferry.

Your memorialists would represent that the road as now located will be impracticable at certain seasons of the year owing to the route on which it passes being subject to annual inundations from the Missouri and James river, it being at such seasons impossible to reach the bridge as now located. The change would give a road to the bench lands of the Missouri river, and also accommodate the travel from the State of Minnesota to this Territory, which would cross at that point, also to Fort Dakota on the Big Sioux river, at Sioux Falls; and,

Your memorialists would pray that so much of the unexpended money appropriated to establish a wagon road from the Minnesota state line to the Missouri river be transferred to complete the said bridge; and,

Your memorialists as in duty bound ever pray.

Approved, January 11th, 1867.

## YANKTON COUNTY.

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### CHAPTER XXVII.

[A JOINT RESOLUTION AUTHORIZING THE COUNTY COMMISSIONERS OF YANKTON COUNTY TO HOLD SPECIAL MEETINGS.]

*Resolved by the Legislative Assembly of the Territory of Dakota:*

That the county commissioners of Yankton county are hereby authorized to hold (extra) special meetings, not to exceed four days, for the purpose of settling with former county officers, investigating the liabilities of the county, and ascertain whether they have been created by authority of law, and when complete, to publish a statement of the financial condition of the county, at the county's expense.

Authorizing the commissioners of Yankton Co. to hold special meetings.

Approved, January 11th, 1867.

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## YANKTON LAND DISTRICT.

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### CHAPTER XXVIII.

A MEMORIAL TO CONGRESS RELATIVE TO THE WESTERN BOUNDARY OF THE YANKTON LAND DISTRICT.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled:*

Relative to the  
western bounda-  
ry of the Yank-  
ton land district

Your memorialists, the legislative assembly of the Territory of Dakota, would respectfully represent, that by the 18th section of the organic act of Dakota, approved, March 2d, 1861, the Yankton Land District is made to comprise all that portion of the Territory of Dakota, "east and north of the Niobrarah river;" and

WHEREAS, All government maps represent the western boundary of said Land District as running due north from the mouth of said Niobrarah river, leaving all territory west of said line without the limits of any organized land district; and,

WHEREAS, the U. S. land surveys have already been extended to range 70 west, nearly one hundred miles west of said boundary up the Missouri valley, which lands are constantly being settled upon by industrious farmers, who are obliged to travel over one hundred miles to enter their lands in the local U. S. land office at Vermillion, the only one in the territory; and

WHEREAS, The said 18th section of the Organic Act is somewhat indefinite as to the true geographical limit of said western boundary of the Vermillion district; therefore,

Your memorialists would respectfully pray, that said 18th section be so amended as to divide the Territory of Dakota into two land districts, the dividing line of which shall run from the mouth of Dakota (or James) river, thence up the main channel of said river to the mouth of Maple river, thence on a line due north to the British line, and all lands lying west of said line be styled and called by the name of the second land district of Dakota, and the location of the land office of said district be located at the county seat of Charles Mix county.

And your memorialists will as in duty bound ever pray.

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